

FACETS OF CRIME IN INDIA

S. VENUGOPALA RAO
INDIAN POLICE SERVICE



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To
Venkateswara
The Lord of the Seven Hills

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PREFATORY NOTE

SHRI S. Venugopala Rao has written an interesting and valuable book on *Facets of Crime in India*. The book deals with the anti-social activities prevalent in our country, and will be helpful to all those interested in reducing crime in our country.

S. RADHAKRISHNAN

FOREWORD

PERHAPS no other police force in the world has to face problems of such bewildering variety as the Indian Police. The vast sub-continent of India with its staggering distances and teeming millions of population of diverse castes, creeds and languages provides the widest contrasts in service conditions and poses an infinite array of problems. The weakness as well as the strength of the nation lies in the heterogeneity and the vital thread of unity which runs through this diversity. Not unnaturally, a great burden falls upon the shoulders of the Indian Police. The policeman in India has to be versatile to an amazing degree which is difficult to comprehend for one who has no intimate knowledge of Indian conditions.

Factual information regarding the volume and nature of crime in India is generally published through official reports and Statistical Abstracts. Interesting narratives on selected topics of crime have also been written from time to time by a few police officers on the basis of their personal experience and knowledge. More recently, thanks to the renewed interest in a scientific approach to the problems of crime, some monographs on certain selected aspects of crime in India have been attempted. Thus, in the field of crime control, there are two view points—that of the policeman who is concerned with the immediate objectives of law enforcement and that of the criminologist who is understandably impatient with the policeman's handling of crime and criminals. To the layman at least, there seems to be a gulf between the two methods of approach, which is difficult to bridge. **FACTS OF CRIME IN INDIA** is undoubtedly a sincere attempt to present them objectively and examine to what extent they can be reconciled and a common ground of action can be explored.

Crime is essentially a part of human behaviour and has consequently engaged the attention of the best intellect in this country from times immemorial. Its manifestations are many and in a country like India, it takes many forms

FOREWORD

and shapes. This book introduces the reader to a scientific explanation of these diverse forms of crime in the context of sociological, economic and historical developments. The importance of such a study cannot be over-emphasized since it helps to focus public attention on the need for a proper understanding of crime and the practical difficulties which hinder the policeman from waging a successful battle against it. It is not far from truth to say that public comprehension of the immense social problem of crime and of the role of the police in combating it is imperfect, in spite of the wide publicity which crimes attract.

The criminal in India is no different from his counter part in other countries. He is motivated by the same fears, inhibitions and jealousies which warp the human mind. It is, however, in regard to his environmental factors arising from historical and cultural associations that differences are noticeable which necessitate the law-enforcement agencies to reorientate their tactics. In examining the facets of crime in India, the emphasis is laid not on the immediate objectives of crime detection or the sensational aspects of criminal behaviour, but on the scope of practical application of modern criminology. *FACETS OF CRIME IN INDIA* is a valuable contribution in the field of social defence and will be of immense interest not only to the policemen all over India but to all those who are interested in crime and its allied problems.

The author Sri Venugopala Rao has dealt with the problems in an admirable way. I really congratulate him for the work undertaken by him.

Hyderabad
July 14, 1962.

N. SANJIVA REDDY,
Chief Minister, Andhra Pradesh.

The author wishes to disassociate the Government of India and the Organization to which he belongs from the views expressed in the book which are entirely his own.

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Traditional Crime in India

To many who opposed India's aspirations for freedom on the ground that the inherent contradictions in the country's social and political structure would plunge it into anarchy once the firm hand of the British was removed, the cataclysmic events of partition came as a confirmation of their fears. The survival of the country through a welter of agitations, linguistic movements, political adventurism, mass hysteria, student indiscipline and other forms of anti-social activity, are the most remarkable developments in the history of our country ; and to a great measure it is to the forces of law and order that the nation's gratitude is due for steering it through the perilous years of its infancy. The record of service of the Police in India during its formative years is indeed a chronicle of their courage, loyalty, and devotion to duty ; but as Lord Lloyd has aptly said, those men "who have so often risked and too often lost their lives at the call of duty need no rhetoric".¹

Now, more than a decade after the emergence of India as a sovereign republic, it can claim to have settled down to a state of normalcy, although some recent exacerbations emphasize the need for continuous vigilance. Progress is no doubt the country's watchword, but no progress can be real if it were dependent on the shifting sands of internal disorder. In this context, a review of the administration of criminal justice, closely linked with historical and sociological factors on the one hand, and the concept of a democratic constitution and progressive principles of modern criminology on the other, transforms itself into a matter of vital importance to the nation. The

¹ Lord Lloyd, Preface to *The Indian Police* by J. C. Curry, Faber and Faber Ltd., London.

time for such a review is indeed ripe, for it is not too near the transfer of power to cloud the issues with a haze of political bitterness and not too distant to lose the perspicacity of detail or sense of realism.

Thanks to a series of experiments and administrative reforms over nearly two centuries, India can take pride in its efficient police forces capable of withstanding either the periodical orgies of lawlessness of a political and parochial nature or the serious outbreaks of professional crime today. But a hundred years ago, the conditions were entirely different. Harrowing tales of the deeds of dacoits, highway robbers, professional prisoners and predatory hordes who infested the countryside were too numerous to be dismissed lightly as the exaggerated accounts of loquacious historians. Crime was then normalcy itself—a part of the precarious life that people led. Although in ancient and medieval India the principles of criminal justice were well evolved, the absence of an effective and continuing instrument for enforcement of laws and maintenance of order precluded settled conditions. These disturbing conditions had another deleterious effect too ; they forged the criminality of large sections of people to whom crime became an avowed profession.

The secret society of Thugs which flourished till the middle of the last century traced its origin to the medieval ages, the earliest reference to it having been made in Ziad-din-Barni's chronicle of Jalaluddin Firoz Khilji of the thirteenth century.² It was an organised system of murder which had attached to itself an aura of meretricious glamour under the cover of pseudo-religious sanction. It was also associated with considerable daring and a spirit of adventure. Banded together under a name which signified deceit and linked by the devotional loyalty to Goddess *Bhavani*, the Thugs travelled on the high-ways as ostensible pilgrims and way-farers. Their agreeable companionship was a welcome source of courage to the weary traveller who fell in readily with the cavalcade. But he did not know that even as he and his companions sat eating the afternoon meal by the roadside, the robbers would slip their

² H. M. Eliot, *The History of India—As told by its own Historians*—edited by John Dowson, Susil Gupta (India) Ltd. Calcutta (Second Edition 1958)

handkerchieves round the necks. The immensity of the organisation and the devastation which the bands of ruthless Thugs spread in the country can be gauged by the contemporary accounts of lawlessness as narrated by Meadows Taylor.³ Although some half-hearted attempts were made by the early British, it was not till the advent of Sir William Sleeman—more popularly known as Thuggee Sleeman—that an effective campaign was initiated against the depredations of that notorious banditry. Even so, the operations took nearly nine years (1829—37) and needed the whole-hearted support of Lord William Bentinck and a series of comprehensive acts to strengthen the hands of specially selected officers to destroy the Thug organisation.

It is a far cry from the days of Sleeman to the present when crime is systematically tackled by well-organised law-enforcement agencies in the country. Crime is no longer a part of the established order accepted in a spirit of philosophic resignation as it was in the thirties of the last century. It continues to occur, but what has to be recognised is the revolution in the nature of crime.

From the annual reports on crime in India it is observed that, on an average, about six lakhs of cognizable crimes of serious nature against person and property and the state are reported every year. The annual variations in the total volume of crime and under each head are explained with reference to prevailing socio-economic conditions. The above statistics form the only reliable basis for the study of crime in India, but before undertaking it, the nature of criminal statistics and their limitations have to be carefully examined.

Among the many causes which contribute to the comparative inaccuracy of statistics are public apathy, distrust of the police, disbelief in the efficacy of the courts, tendency on the part of affected parties to take the law into their own hands, fear of disclosure of facts unfavourable to complainants, caste and communal panchayats, interference by influential parties, lack of reporting facilities, suppression of crime and manipulation of statistics by the police, and a general tendency to disregard crimes which are of a trivial nature or where juveniles are involved. There are

³ Meadows Taylor, *The Confessions of a Thug*.

large tracts of the country which are inadequately policed ; and sections of communities and tribes whom the law touches only nominally ; they are generally left to their own animistic and tribal customs to deal with conduct which runs counter to their established ways. Even in the year 1958, a number of states have attributed increases in crime in their statistics to better reporting facilities made possible by opening new police stations and improvement in communications.⁴ With the gradual emancipation of the backward areas and spread of education among the handicapped communities, it is reasonable to assume that there will be better reporting of crime and consequently an increase in the figures in the years to come.

It is practically impossible to ascertain with any degree of accuracy the exact proportion of unreported and unregistered crime or to proceed with the study of crime on the basis of constancy of this proportion, for the reason that "all these factors do not come into play together, and even if they do, it is with varying intensity; consequently the percentage of crimes reported is not always the same."⁵ These features of uncertainty and variability in crime statistics make criminological studies in any country—and much more so in India—difficult.

An important issue which presents itself immediately is whether we are concerned with the bulk of crime, its fluctuations and classification or with the criminality of the people. As population increases there is bound to be a corresponding increase in crime without increase in over-all criminality. Consequently the number of cases reported to the police must invariably be stated in proportion to the population. In India census figures are collected once in ten years and the crime rates worked on the basis of decennial figures have no accurate relation to reality. As Sutherland and Cressey observe, "the population figures must be corrected for variations in age, sex, racial composition and urban rural compensation and much of this information is available only in the years in which decennial enumerations are made".⁶

⁴ *Crime in India*, 1958.

⁵ L. Radzinowicz, *Criminal Statistics*.

⁶ Sutherland and Cressey, *Principles of Criminology*.

Yet another difficulty which confronts the student of crime is in deciding whether the index of criminality has to be gauged by the number of criminals arrested by the police or those convicted by courts. The differentiation in the classification of crimes as cognizable and non-cognizable, as well as the multitude of offences of varying degrees of seriousness, and a host of trivial violations do not provide a proper index of 'crime-mindedness'. Out of all this confusion, two methods of evaluating the extent and character of crime have emerged and been accepted. These are statistics of crimes reported or known to the police and the number of persons arrested by the police. In regard to the latter, the disproportionately small number of cases detected, the lack of identification of many criminals and the fact that a single person can be responsible for a series of offences are some of the limiting factors which militate against taking them as an accurate criterion of criminality. This view has now been accepted by all countries which follow a uniform system of classification and collection of criminal statistics.

It has to be stressed that for a comprehensive study of crime which is in fact only an aspect of human behaviour it is not only the number of crimes committed or the criminals arrested that matter, but a host of details and other subsidiary factors which have a bearing on crime, have to be collected, analysed and interpreted in the light of practical experience. There is considerable truth in the statement: "Taken in themselves, statistics are nothing more than symptoms of unknown casual processes. Statistics are, at best, only an incomplete source of information unless buttressed by other relevant and subsidiary factors, properly correlated for sociological research and enquiry"⁷. Whether it is due to the sense of fatalism which pervades Indian thought or lack of facilities and avenues of research, the fact remains that India lags woefully behind in the field of criminal science. It is not merely a question of academic interest, but criminal statistics and allied data of sociological nature are the only means available for the regulation of the conduct of thousands of unfortunates who pass through prison every year and pose

⁷ W.I. Thomas, *The Unadjusted Girl*.

a serious challenge to society. As in any other field of scientific thought, a spirit of inquiry has to be inculcated not only in the student of criminal science but also in the policeman who stands in the front line of the battle against crime.

The Government of India in their survey of crime for the year 1959 recorded a total number of 5,82,008 cognizable crimes under the Indian Penal Code and classified them under the main heads recognized by the UNITED NATIONS SOCIAL WELFARE BOARD and the INTERNATIONAL POLICE ORGANIZATION as follows⁸ :—

HEAD	1959	1958	1957
1. Total cognizable crime	5,82,008	5,90,987	5 81,371
2. Murder	10,712	10,661	10,419
3. Kidnapping and abduction	6,459	6,043	5,821
4. Dacoity	3,774	4,658	5,500
5. Robbery	6,367	7,120	7,408
6. House-breaking	1,18,205	1,24,695	1,29,632
7. Theft	2,33,052	2,36,103	2,33,239
8. Riots	26,987	24,942	23,750
9. Criminal Breach of Trust	15,878	16,017	15,362
10. Cheating	9,677	9,503	9,388
11. Counterfeiting	443	555	629
12. Miscellaneous	1,50,454	1,50,690	1,40,163
(a) against persons	1,07,015	1,05,893	98,210
(b) against property	40,738	41,638	38,904
(c) others	2,701	3,159	3,049

The report shows that during the same year as many as 2,63,924 persons were convicted and 2,48,583 acquitted or discharged by courts. A serious crime is thus committed in this country every minute and there is one criminal among every 1570 persons (1961 census). If it is remembered that these statistics pertain to a single year and a very large percentage of convicted persons are new entrants to the field of crime, the alarming conclusion that there is a gradual increase in overall criminality becomes inescapable. If the innumerable breaches of minor laws are taken into consideration—particularly social legislation of the nature of prohibition or anti-vagrancy laws—the ranks of ‘criminals’ would be greatly swelled. Indeed, the number of arrests which the police make all over the country is staggering.

⁸ Government of India, *Crime of India—1959*.

Road violations, gambling, prohibition crime, prostitution, vagrancy, begging and public nuisances are some of the 'crimes' which contribute to the astounding number of offences which were estimated, at 32,13,156 during the year 1955.⁹ Even if one is inclined to ignore the bulk of petty prosecutions, the matter is of paramount importance in as much as it involves the conflict of a large mass of people with the law-enforcement agencies.

Among the states which showed high incidence of crime per lakh of population are Madhya Pradesh (274.6), West Bengal (239), Assam (208) and Bombay (206.0). What strikes even a casual observer is the wide divergence between the neighbouring states of Madhya Pradesh (274.6) and Uttar Pradesh (101.7). The study of crimes and their distribution on a geographical basis, familiarly known as ecology, leads to certain conclusions regarding the respective degrees of efficiency of preventive policies, as may be gathered from the statement of crime and police strength areawise¹⁰ :

State	Popula- tion in lakhs	Area in sq. miles	Police strength	Crime rate per lakh per popula- tion
1. Andhra Pradesh	312.6	1,05,677	36,729	109.7
2. Bihar	389.2	66,161	25,412	143.8
3. Bombay	482.6	1,91,256	83,564	206.0
4. Kerala	136.5	14,601	10,996	122.2
5. Madras	299.7	50,171	28,965	186.9
6. Madhya Pradesh	260.7	1,70,909	36,505	274.6
7. Mysore	194.0	74,093	23,618	124.2
8. Orissa	146.4	60,136	13,612	142.2
9. Rajasthan	159.7	1,32,439	33,189	122.6
10. Punjab	161.3	47,427	25,650	117.0
11. Uttar Pradesh	632.1	1,13,433	60,127	101.7
12. West Bengal	261.6	34,909	31,614	239.4

Note : Bombay has since been bifurcated into two states of Maharashtra and Gujarat.

⁹ The Government of India, *Statistical Abstracts*

¹⁰ The statistics have been compiled from the Government of India publication, *Crime in India—1959*, and tables published from time to time in the *Indian Police Journal* on the basis of 1951 census.

However reasonable such conclusions may appear from statistics, they can at best be random guesses for crime cannot be explained by simple arithmetical calculations and formulae. Various factors such as political, religious and economic ideologies—population density and composition—distribution of wealth—the extent of employment, play a part in the incidence of crime. It can also be due to ‘culture conflicts’ as in the case of the long-standing problem of dacoity which can be traced to the ‘lack of consistency and harmony in the influences which direct the individual’.

The trend of crime in the last twelve years also provides an interesting study.¹¹

Year	Total Cognizable Crime
1948	6,25,909
1949	6,54,000
1950	6,35,508
1951	6,49,728
1952	6,12,010
1953	6,01,964
1954	5,50,912
1955	5,35,236
1956	5,85,217
1957	5,81,371
1958	5,90,987
1959	5,82,008

Crime in India which rose to a peak figure of 6,54,000 in 1949 decreased by slow stages till 1955 and thereafter it tended to rise. In 1958, it reverted almost to the position in 1952. Hence, two vital questions present themselves: Was the decrease in 1955 real? Is not the present trend of increase alarming when there are unmistakable signs of stabilization of conditions in the country? Are the fluctuations in crime a reflection on the degree of control exercised by the law-enforcing agencies or are they dependent on other economic and sociological factors, and if so, to what extent?

The problems of crime can also be examined from a comparative study of crime in different countries. Such a study, no doubt, suffers from the inherent defects of criminal statistics which are “dark and capricious” but can furnish an idea of national criminality to a limited extent. The

¹¹ *The Indian Police Journal*, Vol VII, No 3, January 1961

following statement tabulated by the INTERNATIONAL CRIMINAL POLICE COMMISSION for the year 1952 is of considerable interest.¹²

VOLUME OF CRIME CASES REPORTED PER HUNDRED THOUSANDS OF POPULATION FOR THE YEAR 1952

Country	Murder	Serious theft including robbery and burglary	Simple Theft	Total number of offences
U. K.	0.8	258.6	910.7	1,342.2
U. S. A.	4.7	325.2	985.5	1,322.4
France	4.8	64.8	365.9	1,484.3
Japan	3.3	6.9	135.7	1,605.5
Finland	5.2	126.3	459.3	5,674.5
India	2.9	46.0	69.2	165.1

A feature which strikes one immediately is the low rate of crime in India which is confirmed by the latest studies conducted by the UNITED NATIONS. Mrs. Perin C. Kerawala, compared the 1952 crime rates in India with those of the rural areas of the United States for the year 1953 in respect of certain important categories of crime per hundred thousand of population.¹³

<i>Nature of offence</i>	<i>U.S.</i>	<i>India</i>
1. Murder Culpable, homicide— including attempts.	6.15	4.5
2. Rape	12.23	5.1
3. Robbery	18.40	3.2

The low crime rates in India are gratifying, but all the same, crime in this country is an expensive affair, costing nearly fifty crores of rupees annually.¹⁴

If stability in administration, availability of well-trained and well-equipped agencies to enforce the laws, and material progress are the main criteria in limiting crime, the United States of America ought to have the minimum incidence of crime. And yet, we see the intriguing spectacle of that

¹² *Indian Police Journal*, January 1955.

¹³ Perin C. Kerawala, *A study in Indian Crime*.

¹⁴ *Ibid*.

country being continually faced with a gigantic crime problem which is variously estimated to cost the American tax-payer billions of dollars every year. This merely illustrates the contention that it is not possible to explain crime on the basis of certain elementary causes or reduce delinquency to simple arithmetical formulae. They lead to the logical conclusion that crime "is a product of a large number and a great variety of factors and these factors cannot now and perhaps ever be organized into general propositions which have no exceptions."¹⁵

Crime, according to Clarence Darrow, is an 'act forbidden by the law of the land, and one which is considered sufficiently serious to warrant providing penalties for its commission.'¹⁶ This definition closely follows that of Parmalee who describes it as an 'act forbidden and punished by law, which is always almost immoral according to prevailing ethical standards, which is always usually harmful to society, which it is normally feasible to repress by penal measures and whose repression is necessary or supposed to be necessary.'¹⁷ The two definitions, between them give us the legal definition, which has naturally many limitations. A legal definition does not distinguish between a heinous crime and an ordinary misdemeanour like a traffic violation or a road nuisance. The legal definition is therefore sociologically inadequate, in view of the changing laws and new legislations which create new crimes. The inadequacy of the legal definition lies in the inadequate nature of law itself, its changing values according to the prevailing concepts of moral and social obligations cast upon the members of society. Crime is thus a 'changing concept'¹⁸ which is dependent on the social evolution of the people.

Whether viewed from a purely legal angle or a purely sociological angle, whether it be argued that a forbidden act is really harmful to society or the individual, and whether the group which has the power and authority to enforce its beliefs is right or wrong, crime is no more than a failure to

¹⁵ Sutherland and Cressey, *Principles of Criminology*.

¹⁶ Clarence Darrow, *Crime : Its cause & Treatment*.

¹⁷ M. Parmalee, *Criminology*.

¹⁸ Clarence Darrow, *Crime ! Its cause and Treatment*.

adjust oneself to the dictates of society. Crimes are, therefore, classified as those against property, against public peace or order, against religion, against family, against morals and against the conservation of the resources of society.¹⁹ All these acts connote acts which are inimical to the established interests of society. They may vary from age to age and from country to country, but so long as society views them in the light of 'injuries', it takes upon itself the responsibility for their prevention through the instrument of criminal law.

Up to the later part of the eighteenth century, the force of religion, superstition and demonology influenced the concepts of crime which was ascribed to the possession of evil spirits. Punishments were arbitrary and were viewed in the nature of retributory measures or as propitiation to gods. A more rational explanation of crime was attempted by the classical school of penologists, particularly Cesare Beccaria. A significant departure from the primitive traditions came with the publication in 1764 of his famous *ESSAY ON CRIMES AND PUNISHMENT* in which he criticized the inhuman punishments meted out to criminals in an arbitrary manner. The importance of Beccaria's contribution lies not in the immediate results it produced, but in the rational approach made for the first time to problems of crime and punishment and the emphasis on pre-determination and free will in criminal behaviour.

The epoch-making discoveries during the middle of the nineteenth century and the spirit of inquiry and investigation which marked this period were to have considerable influence on the criminologist who had just begun to be puzzled by the apparently inexplicable behaviour of criminals. Among the scientific advances which were to have considerable effect on the researches of criminologists, particularly that of Cesare Lombroso (1836—1909), was the theory of evolution of Charles Darwin, first enunciated in *THE ORIGIN OF SPECIES* (1859). The essence of Lombroso's theory which later came to be styled as the Neo-classical school and which was enunciated in 1876 was that a criminal behaved as he did because he was born so, and the typical criminal could be recognized by certain physical characteristics. Lombroso's theories of criminal

¹⁹ John Lewis Gillin, *Criminology and Penology*.

types with characteristic biological features have been disproved and were noted more for the controversies they raised than for their lasting contribution to the science of criminology. Yet we have to "gratefully acknowledge that even on the shores where the tide has ebbed the farthest, it has left behind it treasures of great price."²⁰ His theory marked a definite departure from the old, dogmatic and moralistic views and paved the way for the stress on the examination of the personality of the criminal for a proper study of the crime.

While Lombroso studied the anatomical features of criminals it was left to his pupil Enrico Ferri to examine the sociological factors which contributed to crime. His contention was that crime was "the synthetic product of three major types of factors : physical, or geographic ; anthropological and psychological ; and social".²¹ Rafael Garafalo laid greater emphasis on the psychological aspects of criminals rather than the physical and stressed the importance of heredity in this respect. Thus, the studies of these eminent criminologists of the Italian school included such widely divergent factors as heredity and environment of the criminal, ecological influences, economic and political conditions and psychological traits.

Considering that the new approach to criminological research was made as a reaction against the cruelty and barbarity of punishments, it was logical that the new ideas should have far reaching results in the field of penology. Professor Franz von Liszt was the leader of the new movement which insisted on understanding the causes of crime before dealing with the criminal for his act. Although Cesare Lombroso and Garafalo stressed the physical and psychological traits which made up the personality of the criminal, it was not till the publication in 1902 of "Crime and its Repression" by Gustav Aschaffenburg of Cologne, that the value of the psychiatrist's contribution to the problem of crime was recognized. The defect of the work of the early criminologists—if it can be called a defect at all—was their inability to see that crime was the result of no single factor, but the cumulative effect of a number of factors. Today we know that a normal

²⁰ Professor Courtney Kenny, *The Italian Theory of Crime*—Cesare Lombroso.

²¹ *Ibid.*

man's behaviour is the result of interplay of a number of factors, and much more so, a criminal's. Although giant strides have been made in the field of psychiatry and psychoanalysis, the human mind is still a mystery and a source of wonder. It is to the revolutionary theories of Freud and his explorations into the dark recesses of human mind that we owe our knowledge of yet another important factor in crime causation.

Biology, sociology, medical science and psychology have been thus pressed into service to understand the meaning and causes of crime. It is obvious that in India too a multitude of factors come into play in the causation of crime. Nationality, racial characteristics, geographical factors, political developments and the impact of modern civilization have in their own measure contributed to the criminal potential of the country. Religion, social customs, superstition, caste and communal hatreds, sectional vendetta, alcoholism and drug addiction are other factors which have appreciable influence on the incidence of crime in India. The crime pattern in India therefore follows the familiar conclusion of Dr. Cyril Burt that 'crime is assignable to no single universal source, nor yet to two or three. It springs from a wide variety and usually from a multiplicity of alternative and converging influences'.²² A proper study of crime can only mean the knowledge of generalized criminal behaviour as a whole with particular reference to specific individual behaviours and conditions. Every criminal has his little world of make-believe. The student of crime, be it the academic criminologist or the practical policeman, has to explore these worlds so that the knowledge gained can be usefully utilized in the field of prevention of crime and enlightened treatment of the criminal.

²² Cyril Burt, *The Young Delinquent*, University of London Press, 1938.

2

Crime and Superstition

IN the little village of Ghanasara in Andhra Pradesh, all was quiet on January 24, 1959. The leading family in the village was that of Chengala Ramchandra, the traditional headman, who by virtue of his office and social position wielded considerable influence in the community. The family consisted of Ramchandra, his wife, three sons—Krishnamurthy, Varahalu, and Chinnam—a widowed daughter and Rathi, wife of Varahalu. During the course of nearly twenty five years, the family had risen from comparative penury to affluence which was attributed to the good graces of the family deity. The deity was no other than *Dhanasakti*, the Goddess of Wealth, whom the family believed to reside in a large wooden chest, and worshipped on every Tuesday. In course of time, a delusional frenzy of an intense nature gripped them all, and Ramchandra's wife had a dream in which *Dhanasakti* appeared and demanded human sacrifice in return for the wordly wealth she had bestowed on them.

In order to propitiate the Goddess the entire family conspired and planned to offer the lives of some children who were in the habit of playing in an open ground in front of the house. On the night of January 27, the women in the house lured Damodar, a child of eight, throttled him to death before the deity, and after performing some ritual, handed the lifeless body to the male members in the house for disposal. A superficial investigation which followed the discovery of the body in a near-by well resulted in a verdict of death by misadventure.

One month later, two other boys—Venkatrama and Meghnath disappeared from the village. But in fact, they were lured into the house of Ramchandra. Later in the night both

the children were strangled to death and their bodies were thrown into a distant well. A report was sent to the police by Ramchandra himself, and once again the police investigation followed a pattern of inefficiency. After a perfunctory investigation, the cases were closed.

The village was now full of fantastic rumours. A vague suspicion against the village headman and his family gained for some inexplicable reason, a sudden momentum. A spate of anonymous petitions brought the district police chief to the scene and an exhumation followed. Thereafter the investigation took a sensational turn and it was not long before the police could gather overwhelming evidence of Ramchandra's complicity in the diabolic murders. In the course of a protracted trial, all the accused were sentenced to death, but the High Court of Andhra Pradesh, modified the sentences later to imprisonment. The women in the case were acquitted on the ground that the charge of murder could not be brought home in view of the perfunctory nature of investigation in the first instance, and a number of legal difficulties.

The case is an instance of the effect of age old superstitions which continue to dominate the minds of large sections of population in the remote villages yet untouched by the impact of modern education. There are vast tracts far from towns and in virtual isolation on the verge of forests where old practices and primitive beliefs persist strongly. Even in towns and cities where one can reasonably expect a greater measure of enlightenment, cases originating from superstition come to notice frequently. A recent crime in the city of Hyderabad illustrates the point. A Muslim Jagirdar whose fortunes had dwindled depended upon his son to retrieve them through a suitable alliance. The latter, however, fell in love with the daughter of a poor school teacher. No amount of parental pressure and appeals would have any effect on the adamant youngster. Instead, the opposition seemed to have had strengthened his determination. He married the girl clandestinely and began to live with her in her house. The distraught parents of the boy gathered the impression that he was under a spell cast by the girl, and concluded that it had to be suppressed by counter spells. They approached a practitioner of black magic, living in a secluded and disused temple on the

outskirts of the city. The magician promised relief and performed *Bhanamati* on a number of occasions on the strength of which he squeezed considerable sums from the gullible couple. When, however, the ritualistic attempts failed in their object, the parents became impatient and began to press for the return of the money. The impostor put forward an explanation that his *Pooja* did not have the desired effect on account of the piety of the girl's father which acted as a protective armour against the forces of his black art. He proceeded to suggest that the only way to wean away the boy from the spell of the ill-chosen spouse was to remove the spiritual influence of the school teacher. In their deep frustration, the ignorant couple fell in with the suggestion readily and engaged a few goondas to abduct the poor old man while he was on his way to the school. He was carried by force in a car to the deserted temple and strangled to death. However, before the priest could exhibit his talents in the art of black magic, the Jagirdar and his wife found themselves facing a greater crisis in the form of a murder charge.

These two cases which are of recent occurrence indicate the grip of superstition on people and its contribution to crime in this country. It is true that the difference between India and other countries in the matter of superstitious beliefs is only one of degree. Even in advanced countries, demonism persists in some form or the other, and in the traditional beliefs of the people. Although beliefs in witches and demons is practically extinct in the United States, there are even today some 'Culture pockets'¹ where it is still prevalent. There are some sections of people who believe in the efficacy of charms to ward off evil spirits. Barnes and Teeters recount an incident from Philadelphia a few years ago in which a "neurotic superstitious father" was found babbling about witchcraft, and spirit warnings when questioned by the police about the murder of his baby.² It may be interesting to recall here that ancient theories attempted to explain criminal conduct as the result of possession of evil spirits. To a great extent this primitive view continues to hold sway among many. A

¹ Barnes and Teeters, *New Horizons in Criminology*.

² *Ibid*.

majority of Indians are full of superstitious beliefs which pervade their daily life to an extent which is incomprehensible to a foreigner. Even today, no journey is undertaken and no business started unless the omens are propitious. Astrology and soothsaying play a dominant role in the lives of the people. Sacrificial rituals, offerings to village Goddesses, propitiation of evil spirits by animal sacrifice are still common in most of the states. There are instances where prophetic forecasts of coming events have worked deleteriously on the minds to such a pitch of frenzy that crimes were committed. Section 508 of the Indian Penal Code which provides for the punishment of those who induce persons to follow a particular course by making them believe that they would be objects of divine displeasure, shows the extent of superstition in the country and its effect on crime. The penal section was intended originally as a safeguard against such practices as '*Dhurna*'—at one time a familiar mode of realizing a debt or demand under threat of divine displeasure. To a superstitious mind, such threats cause as much mental torment as physical injury and its intensity "varies in inverse ratio with the education and the enlightenment of the accused, the result being that the ignorant and the weak fall an easy prey to this species of imposture."³

A strong belief in spells and sacrifice to obtain material wealth is a frequent cause of crime. From time immemorial human sacrifice has been considered efficacious in exorcising evil spirits. More frequent are murders committed in the belief that human sacrifice would reveal hidden treasure. This was a motive in a case where a native of Bellary district was tried for the murder of his own child. A few years ago, in Mysore, two persons were charged with the murder of a woman and her infant child who were presumably offered as a sacrifice to secure some treasure which was believed to be hidden near the scene of the crime. Two Kuruvass, in Madras State, installed an idol and attracted a number of children by distributing fruits and sweets. After gradually winning the confidence of the children, they were taken at the close of daily worship and sacrificed to the deity. Here again, the motive was gain.⁴

³ Hari Singh Gour, *The Penal Law of India*.

⁴ H. R. Roc, *Superstition and Crime in India*.

Similar to this, but less serious, are those cases where superstitious beliefs of gullible people are exploited. The methods of cheating are universal and are based on the promise of easy money. During 1955 and 1956, a series of cases occurred in Secunderabad where a band of intrepid cheats in the guise of ascetics went to a middle class family and predicted that there was a huge treasure beneath the house which could be secured only by propitiation of a particular Goddess over an extended period. The family fell in with the suggestion and made necessary arrangements for *pooja* which had naturally to be conducted in utmost secrecy. For the purpose of *pooja*, however, the priests required *Kanakambaram*, a precious and rare type of incense which could be procured only from a *Sadhu* known to them. It was explained that the *Sadhu* was opposed to the use of this precious incense for material advancement, but might stretch a point in their favour if they interceded and made a proper approach. The price of the sacred incense was very high-valued at a thousand rupees for a packet, but that was only a matter of secondary importance. The main difficulty lay in persuading the *Sadhu* to part with the incense which he had gathered after many years of penance and wanderings in the Himalayas. By now, the cupidity of the family was roused to such a pitch of expectancy that they began to entreat the visitors to procure the incense at all costs. After considerable hesitation, the bogus priests agreed and returned later with a packet of the incense for the "reasonable sum" of a thousand rupees. That very night *pooja* was performed within closed doors with all solemnity and secrecy befitting the occasion. The priests brought out during the early hours of the morning an earthen pot containing a little jewellery and a snake. The gullible family was not allowed to examine the contents closely on the ground that the treasure was being guarded by "*Nagaraj*" the King of the snakeworld and there was nothing more to do but further propitiation and *pooja*. This went on for a number of times and the family mulcted of a thousand rupees on each occasion. Thereafter, the culprits vanished, leaving no clue to their identity.

A similar case, in a slightly variant form, occurred a few

years ago in the house of a rich zamindar in East Godavari District of Andhra Pradesh. So implicit was the faith of the gentleman in the spiritual integrity of a *Sadhu* who promised material and spiritual well-being that he allowed him to perform *pooja* in the strong room where the family heirlooms and jewellery were kept. It was not till another six or seven months when an inspector of Visakhapatnam arrested the *Sadhu* on suspicion and recovered the valuable jewels that the Zamindar knew that he had all along been harbouring a notorious cheat under his roof.⁵

The garb of the ascetic and the pilgrim have been more popularly adopted by the criminals than any other cover. This is primarily due to the religiosity of the people who do not hesitate to undertake the most arduous pilgrimages to fulfil vows made to their favourite gods and goddesses. Bogus saints claiming miraculous powers of curing various ills appear periodically in all parts of the country and attract hundreds and thousands of devotees. The craze persists till people are disillusioned by some sordid exposure. It is surprising how quickly and easily such experiences are forgotten ; for hardly the sensation dies down, when another *Sadhu* arrives at some other place a few miles away and people go to him with offerings in cash and kind.

Sometimes, the inability of the people to distinguish between the bogus and the genuine *sadhus* who wander in the country leads to serious consequences. A few cases of missing children in Andhra Pradesh a few years ago created wild and fantastic rumours in all big towns that gangs of *Sadhus* were roaming in the country and kidnapping children for purposes of sacrifice in the Himalayas. For a number of days, the scare was such that children were not allowed to go out of their houses. All sorts of rumours were set afoot, with the result that many innocent persons were assaulted and beaten up by enraged people under the impression that they were the kidnappers.

As stated already, belief in spells also leads to considerable amount of crime in this country. In an old case of child murder the motive was that the accused believed that his wife would produce a healthy baby if she was washed in

⁵ Edger Thurston & K. Rangachari, *Castes & Tribes of Southern India*.

the blood of a slain child. Murder also results from hatreds aroused by people who cast an evil eye. Cases of torture to drive away evil spirits are very common all over the country. A man suffering from prolonged dysentery, who was advised by a witch doctor that his illness was due to a spell cast on him by another, went to the extent of killing the suspected person. Cases of murder of black magicians continue to occur in certain parts of the country even today. In South Canara two men were found guilty of shooting a man dead because they believed that the deceased was neither curing their brother nor allowing other witch-doctors to cure him.⁶

Witchcraft and black magic continue to promote the incidence of crime in many ways. Perhaps the most famous black magic art is *Bhanamati*, prevalent in certain districts of Andhra Pradesh and Mysore. The fact that belief in this cult has been, and still is, responsible for some of the most atrocious crimes is borne out by police reports and judicial proceedings. Some years ago, the Hyderabad High Court was called upon to hear two cases which were sent up for confirmation of the sentences passed by the Sessions court in Medak District. The first one related to one Mouri Elliga who was sentenced to transportation for life for the murder of another villager, Dugloo, reputed to be a black magician. In defence, the accused stated that he awoke one night to find Dugloo sprinkling some liquid round his sleeping wife and suspected that he was bent upon abducting her by means of black magic; he, therefore, armed himself with an axe and lay in wait for Dugloo and killed him when the latter made his appearance the following night.

In the second case two villagers were found guilty of strangling a man whom they believed to be a black magician. They took his body to a neighbouring temple to create an impression that the Goddess had punished him for practising black magic. There are typical cases which continue to occur in the rural areas of certain districts of Andhra Pradesh and Mysore where *Bhanamati* is considered an efficacious cult. There are instances of whole villages being deserted as they were considered to be notorious haunts of black magicians, and there

⁶ H. R. Roc, *Crime and Superstition in India*.

was no sense of security of life or property. It is not possible here to examine whether there is any truth in the weird tales recorded from time to time relating to *Bhanamati*. It has, however, to be mentioned that the Hyderabad Police prior to 1956 not only believed that the cult was real with immense potential for harm but also had trained staff to deal with the menace of black magic. The annual reports on the administration of the police department in the former Hyderabad State furnish statistics of *Bhanamati* cases cured by sub-inspectors and inspectors of the Hyderabad police who were themselves well-versed in the cult, and had the necessary magical anti-dotes to the spells cast by unscrupulous black magicians. The report for one year showed that the police department of Hyderabad took up the treatment of 114 *Bhanamati* patients and cured 112 of them.⁷

Bhanamati practitioners are generally drawn from the lowest class who abuse it to extort property or put the victims to considerable physical and mental strain and thus bring them under their power. The broad details of the art of black magic consist of making a small effigy from wood, wax or earth of the intended victim and, after performing the prescribed ritual, certain symbolic bodily injuries are inflicted on the image so that the same may be reproduced in the victim. There are many types of incantations employed in *Bhanamati*, the principal effects of which are loss of consciousness, appearance of blisters, paralysis, blindness, outbreak of dreadful diseases, clothes catching fire, stones and filth falling inside the house unaccountably and many other physical ailments and strange phenomena. While a great proportion of the cases reported may be explained away as due to the wild fancies and delusions of the people concerned who are only too willing to believe the most incredible stories provided a spiritual atmosphere is created to surround the most ordinary happenings and while many of them may also be ordinary cases of hysteria in women, it cannot be denied that year after year there are a few unaccountable happenings which have defied scientific inquiry and investigation. It is on record in the administration reports and contemporary newspapers that Mr. Goad, an officer of the

⁷ *Report on Administration of Police Deptt., Hyderabad, 1340 Fasli (1940-41).*

Indian police who was in Hyderabad State, was specially deputed to enquire into the incidence and veracity of the cult of *Bhanamati*, started as a sceptic, but after going through the voluminous material gathered regarding the activities of Black magicians in Medak, Bidar and other districts, was so convinced that it was at his instance that the Hyderabad police had to be trained and equipped for the battle against the dark and unseen forces of evil.

There are other cults similar to *Bhanamati* in some parts of the country. The effigy method of sorcery continues to a small extent in Tamilnad. In some parts of Kerala there are still a few sections of people who believe that the more well-versed among the black magicians are endowed with the power of destroying whomever they please.⁸

In view of the hazardous nature of operations of criminals and the constant risk of apprehension which they face, they are prone to be superstitious. Some of them set aside a portion of their booty for a favourite saint or deity and make pilgrimages to selected shrines. Some criminals dedicate their burglary tools to their chosen deities before they set out on predatory excursions. Many of their superstitious beliefs are related to the Moon since a criminal considers dark nights as more suitable for his activities. A number of criminals place great faith in omens; their propitious days and superstitious beliefs have often provided the necessary clues in running them to earth. Although superstition does not provide any motive for the professional criminal, it influences his thoughts and actions.

It is amusing to know that detection of crime in olden days depended to a certain extent on the gullibility and superstitious beliefs of suspects. Edgar Thurston narrates an incident where all the suspects in a theft were given small quantities of rice to chew, while a priest pronounced incantations with due solemnity. They were then asked to spit out the rice. The person whose rice was not properly masticated or which exhibited any trace of blood was adjudged guilty. The faith in the proceedings, the fear of the priest's power, and the guilty conscience combined to suppress the natural flow of saliva without which the hard particles of rice bruise and cut

* Edgar Thurston and K. Rangachar, *Castes and Tribes of South India*.

the gums, causing them to bleed. These methods are perhaps not strictly scientific methods of detection, but it will not be proper to brush them aside as solely based on superstition. When analysed properly, it can be seen that these improvised methods attempted to gauge the effects of a guilty conscience—just as the modern lie-detector and truth serum attempt to do.

Although India has made rapid strides in the matter of education and enlightenment of vast sections of people, specific instances where superstitious beliefs influence ordinary crime are not infrequent. They indicate that superstition continues to exist in considerable measure among the illiterate and ignorant masses and among scheduled tribes and aborigines, and even among more advanced communities in varying degrees. It is only through the gradual uplift and education of the community in general that this source of crime can be eliminated. It is of course bound to be a slow process.

3

The Hereditary Criminal

ALTHOUGH it is widely believed that criminality is inherited, crime, as such, cannot be traced to ancestry. Crime is essentially a social phenomenon, produced by a combination of physical and psychological characteristics of the individual and his reaction to various sociological factors. Admittedly, the personality of the individual is inherited to a certain extent, or he may inherit certain aspects of the character of his forefathers which may incline him to an antisocial behaviour. There is enough scientific evidence to prove that certain mental and emotional characteristics as well as certain physical defects like mental inferiority, epilepsy and insanity can be inherited and they, in their turn, can contribute to a person's tendency to crime.

Students of heredity quote the results of exhaustive studies of some degenerate families in support of their argument. Prominent among those studies are those of the Jukes family and the Kalikak family in the United States. In both the families, which originated in the union of feeble minded people, it was found that a large proportion of the descendants were degenerate and inclined to criminality.¹ A point, however, which does not seem to have been given due weight in reaching the conclusions, is the precise nature of the mental and physical characteristics which were inherited and in what manner they were responsible for the degeneracy.

The importance of heredity or environment in determining the source of criminal conduct is no longer a controversial issue, but it has considerable bearing on the criminal behaviour of some homogeneous groups in India, where large sections of ex-criminal tribes are addicted to crime generation after

¹ Barnes and Teeters, *New Horizons of Criminology*.

generation. In common parlance, they are called the hereditary criminals of India but we have no convincing proof that criminality is passed from father to son biologically. No exhaustive studies have been made as in the case of the Jukes or the Kalikaks but if one were made, there can be no doubt that the result would be almost similar. While some effect of inheritance cannot be entirely ruled out, the generations of these criminals are merely creatures of the environment that surrounds them from the time of their birth, for, by family tradition, habit and religious custom, they are trained in the art of crime and their whole lives are in fact dedicated to criminal ideology. So, when we speak of heredity as a cause of crime, it is not merely the biological factors that are inherited, but the environment which is a separate and distinct factor, that accrues to a criminal due to the accident of birth.

Many of the hereditary criminals in India belong to the socially ostracized castes which must have belonged, according to some ethnologists, to the aboriginal pre-Aryan inhabitants who were forced into the position of menials by their more powerful conquerors.² It is likely they might even have been given permission to adopt theft and robbery and other anti-social practices provided their depredations did not affect the community life of the village in which they lived. This view is confirmed by the fact that even today ex-criminal tribes continue to live in segregated areas in the outskirts of villages, a fair proportion of them having been till recently untouchable and engaged in the least rewarding of community services. Tribes owe their criminality to environment and social ostracism or other reasons—historical and social.³ The unsettled conditions in the country which followed the break up of the Mughal empire and the general anarchy which prevailed later and which favoured the spread of Thuggee also contributed in some measure to the formation of homogeneous groups which glorified crime and adopted macabre rituals to sanctify their chosen profession. Even after a long time after the suppression of the Thuggee, bands of criminals were wandering over the country-side specializing in the gory

² P. N. Ramaswami, *Magisterial & Police Guide, Vol. I, 1951.*

³ J. C. Curry, *The Indian Police.*

avocations of poisoning and looting. Others settled down in their villages, forming distinct groups and tribes without, however, completely surrendering the adventurous pursuit of crime. Apart from these historical and ethnological reasons, there were instances of normal law-abiding castes turning criminal due to economic necessity.⁴

J. C. Curry estimates that the wandering gangs belonging to the denotified tribes may be in the region of a quarter of a million, while the number of those who have settled down may be in the neighbourhood of three or four millions.⁵ Since Curry wrote his book there has been considerable increase in population and the denotified tribes are variously estimated as about six millions today. It is not possible to catalogue the innumerable tribes and castes who are existent in almost every state or to recount in detail the pioneering work of research and the vast amount of material gathered about the typical characteristics and peculiar customs of scattered sections of tribes, wandering gypsy castes and criminal settlements, which have been incorporated in the monumental works of Edgar Thurston, Kennedy and others.

The initial efforts to control the turbulent activities of some sections who chose the profession of crime were made under the Criminal Tribes Acts of 1879, 1911, and 1924.⁶ The law upto then furnished the authorities with no adequate means of dealing with the sections of population addicted habitually and traditionally to crime, other than through the normal channels of criminal justice. Although bitterly criticised from many angles, the Act did mark a courageous and realistic approach to restrict the growing turbulence and criminality of the tribes and bring them under the supervision of the police and here was the most progressive feature of the legislation to wean them away from criminal careers and convert them into useful and respectable citizens of the state. In brief, the Act empowered the local governments to declare any tribe or class addicted to systematic commission of crime, to direct the registration of the members of such tribes,

⁴ F. C. Daly, *Some types of the Indian Hereditary Criminal*.

⁵ J. C. Curry, *The Indian Police*.

⁶ B. S. Hakerwal, *Economic & Social Aspects of Crime in India*.

compel them to report themselves at fixed intervals and to notify to the police their change of residence or intended absence. The Act also provided the preventive-*cum*-reformatory measure of restricting the movements of the tribes and placing them in industrial or agricultural settlements with their rehabilitation as the primary object. A further provision was made to remove impressionable children from the sordid and degrading atmosphere of the primitive colonies and place them in reformatory schools.

It is not denied that the legislation had many defects, framed as it was in the beginning of the century when public sentiment was not sensitive to the degree of repression used in the interests of over all social security. Administratively, the number of criminals to be registered was so large and their inter-state and inter-district movements were so frequent that the police were piteously inadequate to enforce the provisions of the Act with full degree of success.⁷ Yet it must be recognised that in spite of the repugnant nature of some of the provisions, there was general public approval of the restrictions on sections of the community who had for many years displayed total lack of social responsibility.

It was at the instance of Sir John Hewett, Lt. Governor of the United Provinces (1907-12), that the idea of entrusting non-official agencies—particularly the Salvation Army—with the management of settlements contemplated under the Criminal Tribes Act took shape. Although in earlier years some experiments had been made by individuals including some policemen as in the case of Mr. Christie in 1882,⁸ there was considerable opposition to the approach to non-official agencies on various grounds—not the least of which was the prejudice of the police themselves. Yet, years of patient work among the tribes who were suspicious of and hostile to any suggestion of reform touching their lives, were to show some remarkable results in directions in which future line of action might lie. Although the Salvation Army was the first to undertake the work of reclamation of the 'criminal tribes', a

⁷ S. E. Edwards, *Crime in India*.

⁸ J. C. Curry, *The Indian Police*.

number of other religious bodies were also associated with the work at later stages. Their work, however, met with varying degrees of success and their achievements did not get the same publicity as those of the Salvation Army.

The Salvation Army managed a number of settlements in Uttar Pradesh, the Punjab, Madras, Bengal, Bombay and Orissa. Some of the settlements were mainly agricultural, while some were purely industrial. There were also mixed institutions to suit the vocational aptitudes and interests of the inmates. The principal industries were weaving, mat-making, needle work and manufacture of leather goods.

Each settlement was under the management of a European manager and his wife. A police post was usually near at hand but it was claimed that there was little need for police protection or any cause for their interference in the internal administration of the settlement. The annual statements of accounts were prepared by the Salvation Army authorities who submitted them to the local state government which actually met the cost of supervision, education and maintenance of buildings, while the profits arising from sale of handicraft goods and other produce went towards making the settlements self-supporting.

Perhaps more than the attempts at reformation through vocational training and employment, was the emphasis on religion which could not but have powerful influence on the outcastes whose lives were steeped in drunkenness, vice and superstition. The Salvation Army was reluctant to take up the work without the element of religious persuasion, for, to be frank, the reclamation work provided one of the most fruitful channels of proselytization. To say this is not to decry the pioneering work done by the Salvation Army among the socially handicapped groups, but merely to point out that any agency not stimulated by intense religious fervour would have found the problem totally intractable and frustrating. It was therefore, with confidence and a sense of signal achievement that Sir John Hewett could declare : "The most gratifying feature in the history of Criminal Tribes . . . has been the success of the Salvation Army settlements in Gorakhpur and Moradabad.⁹

⁹ F. St. Booth-Tucker, *Muktafouz*.

Praiseworthy as the achievements of the Salvation Army were in the field of spiritual and material rehabilitation of the criminal classes, there is a possibility of magnifying them out of all proportion by the glowing contemporary accounts. In an account of the progress of work done in Stuartpuram settlement in Guntur District (Andhra Pradesh) the Salvation Army authorities claimed : "In the thirty fifth chapter of Isaiah it is said that the desert shall rejoice and blossom as the rose. It shall blossom abundantly and rejoice with joy and singing. Both literally and figuratively this has been fulfilled in regard to Stuartpuram settlement. When on June sixth, 1914, the Army began work here, it was a wilderness indeed, materially and spiritually. There were a few Erukala families . . . Later, the settlement was started and the hitherto barren shoals of sand were turned into gardens. Visitors came from all over India to see if it was a fact that even the coconut palm, mulberry and Eucalyptus trees were grown in the sandy regions. Yes, the desert was in full blossom among the tribe's people. No more wandering about, no more fear of the police . . . Time after time there have been more of these wandering tribes added to the settlements and their numbers have increased so that there are more than two thousand souls in the settlement."¹⁰

This was in 1927. Twenty-five years later, when the writer went to Guntur, he found no indication of general elimination of criminal instincts among the settlers. The Salvation Army authorities were in the process of handing over the managements to the Social Welfare Department of the State Government. The population in the settlement had grown enormously, and this might be one of the reasons for the breakdown of discipline to a certain extent. The reluctance of the Salvation Army authorities to continue in the face of mounting criticism of their missionary activities was also another reason. A further development was the growth of a new colony about four miles away where a large scale tobacco industry had begun to flourish. A good number of settlers had moved over to the new colony and obtained employment

¹⁰ *F. St. Booth-Tucker, Muktafouz.*

in the factories. But in the original settlement itself there were no visible signs of the 'blossoming tree'. Neither the coconut nor the mulberry relieved the depressing monotony of the sandy shoals. Here and there long stretches of casuarina were formed by enterprising individuals from nearby villages and towns which provided to many of the settlers the alternative occupation of illicit distillation on a large scale. Since the inhabitants were under no restraint whatever, absenteeism was rampant and a major portion of crime in the district as well as in the neighbouring districts of Kistna and Nellore continued to be ascribed to their clandestine activities. The years 1950—57 witnessed the formation of a series of criminal organisations inspired by some of the habitual criminals of the settlement who joined hands with their relatives in other colonies in neighbouring districts and committed a series of highway robberies. The entire organisation was rounded up in 1957, but not before it had committed daring crimes on the national highways in Andhra, Madras and Mysore states.

These instances have been touched upon neither to belittle the substantial work turned out by the Salvation Army nor to question the propriety of abrogating the Criminal Tribes Act of 1924 which would have been in any case *ultra vires* the Indian Constitution. The Act did perform a useful role in the conditions prevalent in the thirties, but it is too much to expect its continuance in the changed conditions of today. In main, the criticism against the Act was that its provisions were archaic, unduly harsh and unconstitutional, and above all, they attempted to stigmatize whole communities. In the general avalanche of criticism, the one redeeming feature of that legislation, which had in it the potential for rehabilitation and reformation, was lost sight of. The intrinsic value of the work done by the Salvation Army lies not in the number of criminals reformed but in bringing to the forefront the need for an enlightened approach to this problem and the extent of social and moral obligation cast upon society in this respect.

After the repeal of the Criminal Tribes Act the question of introducing central legislation on similar lines but without making invidious distinctions of caste and community and applicable to all habitual offenders has been under consideration for some time now. In the meantime, the erstwhile composite

Madras state sensed the undesirable effects of the vacuum created by the repeal and enacted a Habitual Offenders Act (1948 and 1952) which provided that habitual offenders with not less than three convictions under certain specified sections of the Indian Penal Code should be registered and notified as habitual offenders on whom restrictions similar to those in the Criminal Tribes Act are imposed. The Act also provides for the establishment and management of settlements. To this extent the Madras Habitual Offenders Act did not provide any revolutionary changes in the contemplated control of the habitual criminal and merely followed the Criminal Tribes Act in substance without a corresponding degree of public support and association with philanthropic and religious bodies as the latter had. Although great enthusiasm was displayed in the initial stages, it must be admitted that much of it has dwindled now. If a dispassionate review of the working of the Act is made, it is difficult to escape the impression that the registrations under the Act are nominal, and even in respect of the notified offenders, supervision is negligible. There then remains the most important feature of the Act viz., the power to place the notified offenders in penal settlements. But as in the case of criminal tribes settlements, the inherent weakness of such settlements is the lack of adequate facilities and well-trained workers to prepare the inmates for useful citizenship. Indeed, as things stand at present, a large number of criminals and near delinquents are left without an effective check and without proper guidance to achieve social security in the immediate present and the rehabilitation of ex-criminal tribes in the long run. It is easy to criticize the Act as either too severe or too lenient depending upon the interest taken by the law-enforcement agencies and the degree of enlightenment brought to bear on the implementation of its reformatory provisions. The problem is linked with the wider question of recidivism around which bitter controversies are still raging.

Although there is a tendency on the part of criminologists to isolate the question of ex-criminal tribes as being peculiar to India, it has to be admitted that their speedy adjustment in society is of vital importance from the point of view of crime prevention and can no longer be regulated by sentiment or

prejudice. It is interesting to note that the authors of the Third Five Year Plan have confirmed that the connected economic development plans have had comparatively small impact so far.¹¹ The study team set up by the Committee on Plan Projects recommended that the combined correctional and welfare approach for the rehabilitation of the denotified tribes should be supported by social education, organization of co-operatives and economic programmes consistent with "the adventurous spirit and traditional skills" and the creation of a cadre of trained workers to help them. In the last of these recommendations lies the crux of the problem which means filling up the gap left by the Salvation Army and other allied organisations. Whatever may be the nature of the schemes formulated, no appreciable progress can be achieved unless, as a pre-requisite, we build up a cadre of selfless workers who possess the necessary missionary zeal for the emancipation of the denotified communities.

¹¹ *Third Five Year Plan, A Draft Outline*—Government of India Publication, 1960.

4

Economic Factors

IN an objective study of crime the importance of economic factors lies not in their being directly causative of criminal behaviour but in the creation of inhibitions and desires favourable to delinquency and in the development of the individual's personality. It is a popular misconception that adverse economic conditions have a direct bearing on the incidence of crime. Although many offences like robbery and theft which form the bulk of acquisitive crime may be traced to economic causes to the extent that the criminals are poor or unemployed, it is not true that they are really driven to crime by extreme necessity or hunger. Such crimes can be considered to have an economic basis in so far as individuals are not satisfied with their lawful earnings and adopt anti-social conduct for the fulfilment of their desires.

Poverty is a degrading experience. That a vast majority of India's teeming millions are forced to sub-standard living is an undeniable fact. This has been so for ages and will continue till better standards of living are achieved through planning and till substantial progress is made in meeting the demands of a rapidly increasing population. One has only to visit the slums in Bombay or Calcutta—the sordid conglomerations or one-room tenements in congested localities where families of ten and more, and at times two or even three such families, are herded together, to realise the magnitude of the problem. For instance, a recent survey of the Bombay Corporation revealed that 83,450 families comprising a total population of 4,16,000 live in slums.¹ The survey also revealed the tragic fact that there were 84 slums comprising clusters of huts, having roughly 1,50,000 persons.²

¹ *India Express*, March 25th, 1960.

² *Ibid.*

What is true of Bombay is equally applicable to other cities and towns in varying degrees. This state of want and degradation in living conditions is not peculiar to cities and big towns only. Although enthusiasts of rural life sing its praises with poetic ecstasy, the conditions in villages are terrible and common feature being the squalid outskirts noteworthy only for degrading poverty, lack of elementary hygiene, over congestion, primitive living and deadly monotony. If we add to them large groups of people who, by custom and social ostracism, continue to live in heart-rending isolation, for untouchability, abolished by statute, still finds harbour in the hearts of the people, we have an entirely different picture of rural life. The rural landscape is invariably blotted by clusters of huts improvised by palmirah leaves and discarded tins. One has only to study a single family living in these primitive habitations to understand the sordidness and the monotony of millions of people who inhabit India.

In spite of a natural tendency to associate the bulk of crime with adverse economic conditions, it is gratifying to see that poverty by itself does not lead to crime. As Sutherland says, "the studies of the economic factors in crime do not demonstrate that economic needs, measured in physiological terms and abstracted from social definitions, play a significant part in the causation of crime"³. This is proved by the indomitable courage and fortitude, the undying faith in moral values, the deep impress of religion and the sense of honour which the majority cherish. Even in notorious areas known for lawlessness and outbreaks of crime, millions are law-abiding and would rather die than tarnish their names with criminal behaviour. Congestion, as in the chawls and bustees of great cities, for they have a tendency to attract criminals and other refugees from law for security, provides a favourable climate for crime, but most of the people develop into useful citizens in all walks of life.

The above conclusions are in complete harmony with the findings of criminologists who have undertaken extensive studies of groups which showed that poverty alone did not produce crime. We have been so long accustomed to treat

³ E. H. Sutherland, *Principles of Criminology*.

crime as essentially an economic phenomenon and to associate with it certain individuals and sections who have no stake in the economic life of the country, that the above conclusions may be considered as revolutionary. Although there is greater likelihood of delinquency in people belonging to the lower economic strata, inadequacy in personality, social frustration, emotional stresses and unsatisfactory environment which result from poverty play a dominant role in determining the criminal conduct of an individual. When such individuals are confronted with ostentatious display of wealth or when they undergo experiences which bring to their minds the wide disparity between them and their more fortunate neighbours, an intense inward resentment is built up. Hunger and poverty do not normally drive a man to crime; it is his emotional instability which prepares him to accept crime as justifiable for personal assertion and achievement.

Those who lay undue stress on poverty as a direct cause of crime have indeed no solution for it ; or, if they have, it is merely the Utopian dream of completely eradicating it. It is more a matter for the economist than the criminologist, but it interests the latter to the extent that certain conditions and consequences of poverty such as economic insecurity, unemployment, under-nourishment, denial of elementary necessities and lack of recreation produce frames of mind dangerously near to anti-social behaviour.

In a country faced with the problem of staggering growth of population, unemployment is inevitable. Large scale unemployment means social disorganisation which leads to crime.

We have no systematic studies of the effect of unemployment on crime. India being predominantly agricultural, her people are mostly dependent on the land for a living. It is estimated that nearly 230 millions live by agriculture, of whom about 45 millions are either farmhands or agricultural labourers.⁴ Unemployment is therefore a problem of the lower classes in rural areas and of the lower middle classes in urban and industrial localities. It is bound to grow more acute with improvements in methods of agriculture on the one hand and stabilization of industry on the other.

⁴ *Statistical Abstracts, 1957-58.*

In discussing the problem of unemployment, a significant point of difference between the conditions in the country and those in western countries cannot be over-looked. In India, education in the present form equips the lower and the lower middle classes for clerical jobs, and they develop a disinclination to go back to villages and continue their ancestral vocations. Any attempt to pin them down to their traditional occupations is bound to fail as it merely perpetuates the pernicious caste system in another form. While it is easy to condemn the attitude of the educated in attempting to break away from the village, it is equally difficult not to sympathize with their aspirations. Admittedly, education brings in its wake dislike of manual labour. All these factors combine to provide continuous streams of rural population converging on big cities and industrial towns in search of employment and a definite break from the past. In the country where more than eighty per cent of population are illiterate still, and a vast majority are content to adhere to the land of their forefathers, unemployment has already assumed alarming proportions. If one may hazard a guess, it may in the near future become a deadly spectre on the political and economic horizon.

In attempting to assess the extent of crime directly assignable to unemployment, we are confronted with genuine difficulties pertaining to lack of reliable data of the extent of unemployment in the first instance and how far the ranks of the unemployed provide the criminal elements in the second. In a purely agricultural economy with a new emphasis on industry, the absence of suitable machinery for the collection of statistics is a great handicap in making a proper criminological study. We have therefore necessarily to fall back upon the studies made by competent scholars in other countries as a rough guide for us. In this connection, the studies of Dr. Van Kleeck are of considerable importance. As a result of close examination of a number of cases of convicts suffering imprisonment in the Sing-Sing prison in New York, she came to the conclusion that the unemployed ranks supplied much material to the prison and that unemployment figures prominently in acquisitive crime *i.e.* crime against property.⁶

⁶ Barnes and Teeters, *New Horizons in Criminology*.

Undoubtedly these conclusions can be applied to India. The problem can be further examined from another angle by analysing the vocational distribution of criminals and studying the influence of professions on criminality. A survey conducted by Dr. Kerawala in Bombay State with particular reference to the 1951 census showed that the largest specific occupational groups among criminals are those connected with trade and commerce (16.7%) and agriculture (15.75%), while the respective groups formed 7.7% and 61.75% of the total population. The miscellaneous group, not classified otherwise, accounts for the largest number of criminals and this naturally included the category of the unemployed or those who have had no fixed employment.⁶ The study, however, was not complete in all respects and can only be taken as providing a rough idea of the trend of crime due to unemployment.

In attempting to determine the relationship between crime and economic factors, Justice P. N. Ramaswami has asserted that criminality is strongly influenced by the economic situation, the favourable factors for increase in crime being feeble monsoons, bad harvests, and rising prices.⁷ B. S. Hakeriwal came to a similar conclusion.⁸ However, it is doubtful whether such far reaching conclusions of a general nature can be drawn without taking into consideration other factors simultaneously. A comparative study of all-India crime (Cognizable crime under the Indian Penal Code from 1947 to 1959) shows a definite decrease during the years 1948—53 although prices had consistently risen during those years. These facts emphasize the futility of trying to ascribe fluctuations in crime to any particular or isolated factor. From among the accepted methods followed by criminologists to study the relationship between crime and economic conditions, neither the analysis of the nature of crimes, nor the examination of the economic status of criminals or their vocational distribution is likely to yield useful results.

A point that may however be lost sight of is that the decade

⁶ Dr. P. C. Kerawala, *A Study in Indian Crime*.

⁷ P. N. Ramaswami, *Police and Magisterial Guide*

⁸ B. S. Hakeriwal, *Economic and Social Aspects of Crime in India*.

after 1947 was extraordinary in many respects. The political emancipation, the relaxation of the shackles of trade and commerce linked to the economy of an alien power, the expansion of industry and the developmental activities on an unprecedented scale are all important features with far-reaching effects on the country's economy. Therefore, this particular decade cannot perhaps be taken as a safe guide for determining the trends of crime *vis-a-vis* economic factors. The utmost that can be done is to draw generalised conclusions. Perhaps when we settle down to a fixed economy and procure reliable statistical data for a systematic study of this problem, the results may be more accurate. As it is, it can only be surmised that poverty and unemployment play a far less dominant role in crime causation than is commonly imagined. It is, however, no cause for complacency. It is neither wise nor far-sighted to ignore the over-all effects of poverty and unemployment in the matter of security of person and property. Poverty leads to frustration, jealousy and bitterness ; and through them to perverse political adventurism. Large sections of intensely dissatisfied people are a veritable hunting ground for anti-social agitators and political revagogues to preach violence and hatred against established order.

It is evident that the phase of Industrial Revolution which changed the face of England and revolutionized its entire economic system during the last century is now taking place in India. Before the effects of industrialization on crime are examined in detail it may be worth while to review the general conditions which prevailed in the wake of the Industrial Revolution and in what manner precisely they affected the crime situation. The growth of the factory system and accelerated industrialization enhanced in the first instance the desire for material things. It weakened religious fervour and laid greater emphasis on scientific enquiry and thought. In short, society was increasingly forced to become more adaptable to a realistic attitude to the problems of corporate life. On the other hand, industrialization meant great disparities in wealth which created new jealousies and new class hatreds. The growth of industries led to the creation of new cities and haphazard concentrations of vast populations resulting in social

disorganization on an immense scale.⁹ In the final analysis industrialization meant new laws on the statute book and consequently new crimes.¹⁰

Industrialization must normally lead to increased crime incidence for the simple reason that it leads to urbanization, migrations and unhealthy concentrations of population. This is precisely what is happening in India today, although the continued emphasis on agricultural economy is a stabilising factor. Many new industries have risen all over the country. New cities have sprung up at the sites of gigantic multi-purpose projects and big factories. The existing cities have their own quota of development in the flush of industrial expansion and have generally shown phenomenal increase in population. Dr. K. C. Zachariah estimates that during 1941—51 as many as 97,500 persons have migrated to Bombay alone from the rural areas.¹¹ In a small village every one is known to everyone else and this alone acts as a powerful moral deterrent to abnormal behaviour. When this restraining influence is removed as it happens in big cities, there is little hesitation to adopt codes of conduct not approved in the light of the standards set by small but rigid village communities.

The joint seminar of the UN/UNESCO held in 1956 dealt with this problem with particular reference to Asian countries in the early stages of industrial development. The study showed in the first place that the rural immigrant is faced with "new and bewildering sets of values as well as goals which are often unattainable to him and which are frequently in conflict with those of his background."¹² The early waves of immigrants to new industrial areas are generally unaccompanied by their families, and therefore deprived of the stabilising factors of home and family companionship. The subsequent waves of womenfolk create new problems of maladjustment and exposure. Although industrialization by itself does not create criminal propensities, the individual and group inability to adjust themselves to the new economic and social values, exposure

⁹ Ramsay Muir, *A short History of the British Commonwealth*.

¹⁰ Clarence Darrow, *Crime : Its Cause and Treatment*.

¹¹ Dr. K. C. Zachariah, *Indian Journal of Social Work*, Volume XX, No. 3, December, 1959.

¹² *Indian Police Journal*, January, 1957.

to unfamiliar criminal patterns and the weakening of family ties produce favourable factors for a social breakdown.

Recently, a study of the trends of crime in India with reference to contemporary large-scale industrialization was undertaken at the instance of the social division of the U.N. The period covered by the study was from 1945 to 1955. In undertaking this study, however, urban areas like Bombay and Calcutta were omitted as other vital factors than industrialization play a significant role in crime causation in those areas. Certain areas with special features of development were selected for field study. These included the collieries of Asansol and Kothagudem, the harbour areas of Madras, Visakhapatnam and the newly constructed port at Khandla, the multipurpose irrigation project at Bhakra-Nangal and the purely industrial cities of Coimbatore and Kanpur. Apart from Asansol sub-division of West Bengal where crime showed an increase during the years 1945—51 and a decrease in the subsequent five years and in Kanpur where extraordinary increase in crime was registered in the same period (1945—50), crime in general showed a declining trend in all places where large scale industries and development projects were launched in the public sector. The main conclusions drawn from the above study were : "If development is properly planned and is not lopsided or limited to the sphere of industrialization alone, it does not create any adverse effects on society . . . But if economic development is haphazard and produces or adds to the wealth of only a certain class or the effects of urbanization are not simultaneously accompanied by all round development of social amenities, serious social tensions and conflicts are created and these in their turn, provide causes for the outbreak of all types of crimes and other vices".¹³

Although a reference was made to the over-all crime position in the country—the all India crime figures rose from 6,26,000 in 1948 to 6,50,000 in 1951 and thereafter dropped gradually to 5,25,000 in 1955—it is doubtful to what extent the phenomenal decrease in crime can be ascribed to the planned developmental activities in a few places in

¹³ B. N. Mullick, *Effect of Industrialization on Crime*, Indian Police Journal Oct., 1956.

the country. Even if it is conceded that all over the country there has been a new spirit of enthusiasm and consequent spurts of constructive development within the frame work of the five year plans, it cannot be asserted that the effects of these developmental activities are so soon and effectively felt on the economy of the nation to result in the lessening of tensions and decrease in crime. The decrease in crime in the newly developed industrial areas is, however, a reassuring factor in as much as it proves that industrialization need not be feared so long as it is carried out in a systematic manner as has been demonstrated in the specific fields of study. India, just launched on an enthusiastic crusade of economic development and rapid industrialisation without unduly upsetting her agricultural economy, can draw many lessons from the experiences of countries which have already passed through the successive stages of industrialization. If India can "regulate the haphazard migrations of rural populations in a systematic manner, and prepare the new rising centres of industrial communities for proper reception and social well being",¹⁴ of the streams of immigrants, it will not only tackle the crime problem in a far-sighted manner, but also upset the favourite theories of criminologists that industrialisation must necessarily lead to crime.

¹⁴ *Indian Police Journal* Jan., 1957.

5

Portrait of a Dacoit

A young French artist, recounting her thrilling experiences among some dacoits in one of the villages of Rajasthan wrote in a fashion magazine recently : "It never occurred to me to be scared—they were charming people though they seemed half-asleep most of the time."¹ The treatment which the 'kindly' dacoits accorded to their strange guest in the wilderness of the desert produced equally interesting reactions among the readers. One of the readers said : "These dacoits seem to have some basic principles. Firstly, they rob the rich and are generous to the poor. Secondly, being condemned by society, some of them are forced to keep up their tradition to earn their living. By showing consideration and love, we may win over most of them and make them peace-loving and truthful citizens."²

The point which had not perhaps struck these sympathetic readers is how exactly can 'consideration and love' be shown to gangs of dacoits who prefer to remain always outside the pale of law, protected by the natural security which the jungle and the ravine provide. Dacoity is no soft or humdrum profession. It is a grisly business of blood, sweat, and tears. A single band of twenty or thirty dacoits can cause untold suffering and devastation in the country-side for a number of years. One such gang means the gearing up of police efforts to an uncommon pitch of endeavour. It means, above all, a drain on the tax payer's money to an extent that can scarcely be imagined by the well-meaning ladies sitting in the plush luxury of their drawing rooms and writing maudlin letters to women's magazines.

¹ *Femina*, March 4, 1960.

² *Femina*, March 18, 1960.

The report on crime in India for the year 1959³ shows that a total number of 3,774 dacoities occurred all over India during that year. Among the states which are noteworthy for this type of crime and which have continually to adopt special measures for prevention and detection are Bihar 867, Uttar Pradesh 849, West Bengal 412, Bombay 468 and Madhya Pradesh 388. The volume of crime per hundred thousands of population is highest in Bihar and Assam (2.2), West Bengal (1.6), Madhya Pradesh (1.5) and Uttar Pradesh (1.3). A gratifying feature was that, compared to previous years, incidence of dacoity has shown substantial decrease by 19% mainly due to large scale anti-dacoity operations launched by almost all the affected states.

In his book on the Indian Police written more than two decades ago, J. C. Curry predicted with surprising accuracy that the outstanding problems of Police administrations in India would be rioting and dacoity⁴. How deeply dacoity is rooted in Indian soil can be gauged from a report of a magistrate in 1802 : "Dacoits glory in the dread name they inspire ; their names and characters are familiar to all the inhabitants. No one would give evidence against them and the magistrates are unable to convict them for that reason"⁵. The present day accounts of some of the dacoities and the gruesome tales spread by the villagers prove that conditions have not changed much after more than a hundred and fifty years.

Professional dacoity is practised in rural areas where there is no efficient policing or where communications are difficult due to terrain conditions as in the labyrinthine ravines of Madhya Pradesh or the desert wastes of Rajasthan. The torch-light dacoities in the South, now fortunately less frequent, were attended with great barbarity. In urban areas, dacoities are organized on Chicago lines of gangsterism, but they too are comparatively few. By and large, the majority of dacoities are committed in inaccessible rural areas by professional dacoits who seek the refuge of natural hideouts and pillage innocent people. Armed encounters with the police are

³ *Crime in India, 1959.*

⁴ J. C. Curry, *The Indian Police*, Faber and Faber Ltd.

⁵ *Ibid.*

anticipated and they are trained in reconnaissance and snap-shooting remarkably well. They continue their careers of crime till the leader of the gang is killed and the organisation is broken. It takes only a little time, however, for the surviving members to resume the broken thread under the guidance of a new leader and embark once more on the thrilling, if hazardous, life of lawlessness.

Contrary to popular misconception, there is nothing romantic about the majority of dacoits, who are noted for their extreme cruelty and barbarity. The awesome names and ruthless exploits of dacoits like Mahboob Khan, Doongar Sahai, Batohi, Shama, and Bava Vala of the last century and the early decades of this century are remembered even today. The Chambal Khanjars whom Mr. Young of the U.P. Police fought resolutely for over a decade are known for their daring and extreme disregard of human life. More recently, the atrocious crimes of Lakhan, Rupa, Kalyan Singh and even a woman dacoit Putli in Madhya Pradesh, Uttar Pradesh and Rajasthan have brought to the fore-front the nature and the extent of the menace. J. C. Curry rightly stresses : "There is apparently an endless succession of such tales and it cannot but cause surprise that this form of crime is not more effectively checked by so much courage, so much labour, and such elaborate organisation Dacoity presents the most formidable problem to the Indian Police."⁶

No account of dacoity in India can be complete without recalling the incredible career of the doyen of dacoits—the legendary Man Singh whose exploits for more than a decade are surrounded even today by an aura of romanticism. More than any criminal in recent times, Man Singh had demonstrated that not only crime does pay, but it also commands the admiration of large sections of people.

Man Singh, a Rajput Thakore by caste, was born in 1896 in Khera Rathor of Uttar Pradesh. The villagers of Khera Rathor still remember his father Bihari Singh as an unscrupulous and rapacious receiver of stolen properties. A petty quarrel for supremacy in the village between Bihari and a wealthy Brahmin Tulfram was the starting

⁶ J. C. Curry, *The Indian Police*, Faber and Faber Ltd.

point in Man Singh's career in the grim shadow of a bitter feud. The real crisis in the village affair occurred in 1928 when Tulfiram made a vain bid to implicate Man Singh in a case of dacoity which had just occurred in the village. Man Singh retaliated with an attack on Tulfiram. This in turn led to a more serious clash in the village on July 30, 1928. Man Singh was arrested and sentenced to transportation for life. But his eldest son Jaswant Singh, and his brother Nawab Singh, managed to elude the police and formed a gang of dacoits which could be traced in the year 1937 only when in an encounter with the police, Jaswant Singh was killed.

The premature release of Man Singh in 1939, instead of softening his character, strengthened his determination to avenge his son's death which he ascribed to the machinations of Tulfiram. He regrouped his scattered forces which included his three absconding sons ; and on 4th July 1940, made a concerted attack on and murdered two members of, Tulfiram's party who were suspected to have led the police to Jaswant Singh. No action, however, could be taken against Man Singh who had taken the precaution of providing himself with a cast-iron *alibi*. The activities of Man Singh thereafter were marked by unprecedented fury against Tulfiram and his associates who were hunted and destroyed one after another systematically. On the eighth of June, Tulfiram himself was murdered. Man Singh escaped to the ravines along with his sons and started a reign of terror which for nearly two decades was to keep the police forces of three states busy.

After the death of Tulfiram, his son Netram took up the challenge of Man Singh, which spurred the latter to further escapades in violence. Man Singh reorganized his gang, equipped the members with fire-arms, and carried out his ruthless programme of extermination of the descendants of Tulfiram. In this process he transformed himself into a chivalrous bandit in the romantic mould of the defiant law-breakers of Sherwood Forest. The deep and impenetrable ravines of the Chambal area aided him well and rendered pursuit by the police well-nigh impossible. Among the important crimes attributed to Man Singh were the murder of

Nawab Singh Gujar of Sarhai (August 1943), of Mewaram, a nephew of Netram (February 1944) and another nephew Jodharam. All the cases failed in courts, demonstrating the futility of normal channels of law when confronted with a determined group of people, bent upon crime as the only means of reprisal for personal wrongs.

On August 1947, a general amnesty was declared to mark India's independence. Nawab Singh, the elder brother of Man Singh, was released and he promptly reverted to crime by forming a gang of dacoits. Taking advantage of the situation and of his brother's exile, Man Singh made a triumphant return to his native village and took charge of the fortunes of the family which had witnessed such violent changes. He was now without any opposition in the village. He was respected for his deep religiosity, generosity and consideration for the poor. His exploits were already a legend ; people talked of him in awe, as a man of heroic mould whose purpose in life was to exterminate evil.

Social distinction and elimination of opposition should have normally ended the career of Man Singh in the weird regions of crime. He had every thing he desired. His enemies including Netram had fled and taken refuge in far off Gwalior. His family including Nawab Singh had been united. But here comes the strange part of his life's story. Puffed up with success, he turned tyrannical and overbearing. When Netram returned to the village he could restrain himself no longer. In spite of police vigilance he attacked the house of Netram and wounded his uncle. When the police rushed to the scene, a skirmish occurred in which a person was killed. And once again, Man Singh sought the security of the ravine and preferred the exciting thrill of crime to a prosaic rural existence.

Man Singh crossed the Chambal and fled to Madhya Bharat and thence to Gwalior. He was allowed no respite. A police party contacted him in December 1948, but Man Singh managed to escape without any casualty. Hot in pursuit, the police traced him up to Pahargarh wherefrom he went underground. The factors which helped him in eluding the police of many states for so long a period were the difficult nature of terrain in which he operated, the deep respect

and fear in which he was held by villagers, the characteristic loyalty of the clan to which he belonged and the unsophisticated nature of the people. He had also the advantage of a well-organised system of intelligence, discretion in the matter of recruitment of gang members and above all, the lack of cohesion and coordination among the law-enforcement agencies which were dispersed in different princely states. He went from crime to crime undaunted by the pursuing police parties. In September 1951 he killed four relatives of Netram. In November next year, he attacked the house of Netram and killed him, thus realizing his life-long ambition. The police party in the village rushed to save Netram, but it was too late, and the only satisfaction they could derive was that two of the members of Man Singh's gang were shot dead in the ensuing encounter.

Relentlessly, pursued by the police, Man Singh intensified his criminal activities which had so far hinged upon his hatred of Netram and his family. He moved from place to place, committing dacoities, razing to ground villages if they so much as refused to give him shelter, and ruthlessly eliminating whomsoever he even vaguely suspected to have been in touch with the police. He shifted his sphere of operations to Morena in Gwalior. But the police did not leave him alone. In November the gang was surprised, but it managed to escape with the bodies of the members who were killed. In another encounter in August 1954, his son Tahsildar Singh was captured by the police. From then, it was a hopeless flight which took Man Singh, now old and tired and frustrated, deep into the jungle and the ravine. In 1955, there were a series of encounters, and although Man Singh managed to escape every time, it was clear that the end was not far. On the night of 24th August, the police received information that Man Singh was moving towards Lalwan village. They acted quickly and threw a cordon round the entire area. A pitched battle ensued in which Man Singh was killed. His son, Subedar Singh, was struck fatally by a bullet while he was bending over his father's body. On the side of the police there were five casualties—one of them fatal. Other members of Man Singh's gang tried desperately to rescue the body of their leader, but under

continuous fire, they were forced to leave.⁷

The death of Man Singh made country-wide news. An account of the fateful encounter which ended the chronicle of violence and crime was on the front page of every newspaper. People in thousands flocked to Bhind to convince themselves that Man Singh was really dead, for in the course of many years of lawlessness and banditry, he came to be looked upon as one who had combined in himself the extremes of both good and evil. Today thousands of villagers talk of him with deep respect and a sense of wonder. To them the grim horror of a dacoit's life holds no revulsion.

Man Singh's extraordinary career can be explained in many ways. His intimate knowledge of the area in which he operated and his understanding of the character of the people among whom he moved, his tactical ability and qualities of leadership merely helped him in his depredations and made him more successful than many other contemporary dacoits. He inherited the qualities of reckless courage, fierce loyalty and a streak of chivalry from his forefathers—the Thakore Rajputs. His environment was bad—his first contacts in impressionable childhood were with shady characters. A spirit of vindictiveness and ruthlessness was nurtured by the village faction. It is easy to explain his failure in social adjustment as originating from his perverse nature but the interpretation of criminal behaviour is much more complex.

A psycho-analytical study of Man Singh was never made, but it is interesting to speculate on the probable results of such a study, taking into consideration certain aspects of his life and personality structure. A book of outstanding value in the study of dacoit gangs is Frederick Thrasher's "The Gang" which dealt with a number of gangs of Chicago which terrorized that city in the mid twenties and thirties of this century. Although the conditions prevailing in the arid regions of Rajasthan and the ravines of Madhya Pradesh are not comparable to the urban situation in Chicago, the book furnishes a valuable clue to the criminal behaviour of gangs. It provided a new concept of interstitial areas

⁷ For a more comprehensive account of Man Singh's career, the reader is referred to M. Radhakrishnan's biographical sketch published in the *Indian Police Journal*—July & October, 1957.

of crime in communities imperfectly adjusted to normal conditions. In India, the concept of gangs of dacoits and professional poisoners can, no doubt, be traced to habituation and professionalization of crime, but in fact, it should not be difficult to see in them an instinct for adventurous recreation and an urge for recognition. In the case of Man Singh these are only too obvious. The conflict with Tulfiram and his descendants was no longer a petty village faction, but provided the necessary background for the development of adventurous leadership. Anti-social behaviour, according to psychologists, is merely an expression of an aggression. This aggression, in a normal person, leads to nothing more serious than a protest or a hostility, but in others, not so normal, it may lead to destructive and criminal behaviour. That there was a precipitating factor in the attempted implication of Man Singh and his family in a dacoity in which they had no hand is really immaterial.

To the student of crime, the career of Man Singh is remarkable not because of the spirit of adventure associated with it or his utter contempt for law, but because it raises the question whether there are any practical means of dealing with the dacoit menace in the ravine-filled areas of Madhya Pradesh, Uttar Pradesh and Rajasthan, where there are always on the prowl innumerable Man Singhs ruthless in their forages and where the crime of dacoity is stated to be as old as ravines themselves. The resources of the state and society have been pooled over long years of difficult police campaigns and many valuable lives have been lost in the periodical clashes with these lawless elements. Yet, new criminals have emerged with surprising regularity. In the context of this bewildering record of failure, the experiment of Acharya Vinoba Bhave, the great Sarvodaya leader, in the dacoit infested areas needs careful and dispassionate examination.

In May 1960, Acharya Bhave commenced his famous *PADAYATRA* in Bhind and Morena districts which have long suffered from the depredations of dacoits to introduce what he called "a human approach to this age-long problem". While undertaking the tour on foot, he made a fervent appeal to the dacoits to surrender unconditionally so that

their moral and material rehabilitation could be achieved. The peace mission of Acharya Bhave marks a significant departure from the traditional methods of reformation and was expected to be followed by a deputation of volunteers to every nook and corner of the six thousand square miles of the Chambal valley ravines. The peace mission was to be simultaneously associated with socio-economic measures aimed at improving the lot of the reformed dacoits, support of their families and finally an all-out effort to tackle the social and economic conditions in the ravines which have made dacoity a flourishing occupation.

It is interesting to examine the reactions of the press and the public to this unorthodox experiment in criminology. *The Indian Express*, writing editorially under the caption, "Challenge to Society", said : "The days of miracles are not evidently ended. And the ordinary man feels a sense of moral uplift at this triumph of love over violence, of piety over passion. The true spiritual heir of the Mahatma has proved once again that moral force is more powerful than brute strength."⁸ The *Hindu*, however, took a more balanced view. The paper said that the police have "fought hard for several years, but the terrain has suited the bandits who seem to have useful contacts and good sources of information too. The Bhave mission might be thought of as a second prong of a multi-pronged attack on the problem. . . Ultimately, not only have the dacoits to be checked decisively in their anti-social activities, but a socio-economic programme will have to be launched in the affected areas which will make dacoity impossible."⁹

On the face of it, it was too much to expect that the peace mission would result in immediate, or even, long-term success notwithstanding the great reverence and affection in which Vinobaji is held all over India, and however keenly the harassed villagers desire a change in the situation. Nothing can be more welcome than that moral persuasion should succeed where all other methods have failed, but the problem, unfortunately, was not so simple. It provided a complex and

⁸ *The Indian Express*, May 29, 1960.

⁹ *The Hindu*, May, 20, 1960.

delicate situation to both the police and the Sarvodaya workers, who were sincerely anxious to rid the area of the menace and to rehabilitate the dacoit gangs. In response to an appeal by Vinobaji, about 25 dacoits surrendered before him with arms and ammunition and expressed their sincere desire to turn over a new leaf.

The main question is not the extent of success that can attend these unorthodox methods, but their impact on the regular law enforcement agencies in the context of a realistic administration of criminal justice. Among the dacoits who surrendered were many who were wanted on charges of multiple murders and similar heinous offences. Paitram, who surrendered before the Acharya on the seventeenth of May 1960, was a member of the notorious gang of Rupa who was killed in an encounter with the police in 1959 and was wanted by the police on charges of murder in as many as twenty cases and many more dacoities. Even the most ardent supporter of the peace mission would have found it difficult to differentiate between those who were genuinely anxious to change over to useful citizenship and those who were merely anxious to escape the arm of the law. And even if such a distinction could be made, the problem as to how far it could be accepted by governmental agencies and in what manner, the police who had been fighting the dacoits relentlessly might have to regulate their attitude towards law-breakers, was bound to remain insoluble.

It was perhaps the inherent ambiguity in the mission which prompted Vinobaji to clarify the issues. He declared that there was no intention to avoid the due processes of law in regard to the dacoits who surrendered, and it was in the spirit of his campaign that only those who were genuinely repentant should come forward to surrender. He felt that repentant dacoits would not demand to be exempted from the punishment which would be meted out to them in the normal course, because they would be "conscious of the fact that if they escaped punishment here, they would have to be punished in heaven." In regard to the police, the Sarvodaya leader said that they should give a fair deal to the dacoits even to the extent of giving them legal aid. Indeed the duties of the police were harder than a saint's, because they had

to combine in themselves such diametrically opposite qualities as tenderness and firmness in the discharge of their difficult task.

All the same, the mission of Acharya Vinoba Bhave raised a number of important jurisdictional and administrative issues. On June 2nd, 1960, the Inspector-General of Police, Madhya Pradesh came out with a critical appraisal of the mission and declared that the peace mission "had delivered a blow to the morale of the police force". Adding that no outside help had come in support of the police who had borne the brunt of the dacoit fury for nearly three years when the situation had gone out of control in certain districts of Madhya Pradesh, he said : "When we are nearing the end, we are told that the courage and the sacrifice of all of us were in vain, that the police officers who had shed their blood for defending others had used rifles and had thereby created dacoits." He also referred to the 'legal confusion' created by the peace mission and declared : "Clearly there is a conflict between what the law requires and what the mission wants, and it is wrong to ask a policeman to do what the mission wants."¹⁰

Undeniably, the mission of Acharya Vinoba Bhave attempted to fulfil the genuine desire of all thinking men to find a lasting solution to the problem of dacoity and wean away large sections of misguided people from the grim careers of crime. Prima facie, it may appear that if a sizeable number of dacoits surrender unconditionally, it may be desirable to adopt some unconventional methods for their rehabilitation and adjustment. While in their enthusiasm and zeal, the Sarvodaya workers may expect a genuine change of heart, it is difficult to convince the policeman faced with the grim realities of the situation. For instance, even while parleys were going on with the emissaries of some dacoits at Vinobaji's camp at Ambah, the notorious gang of Panna raided Nayapura village barely four miles away and decamped with considerable booty."¹¹ Another incident was reported from the

¹⁰ The statement of the Inspector General of Police, Madhya Pradesh was published in all leading newspapers in India on June 4, 1960.

¹¹ *The Indian Express*, May 16, 1960.

village of Siholi in Bhind district in which four persons received bullet injuries when a group of armed dacoits opened fire on villagers who were asleep. The notorious Lakkan gang defied all attempts at reformation. These incidents illustrate unmistakably that moral persuasion and appeal to nobler instinct can succeed only in cases where there is some element of consciousness of the concepts of right and wrong.

Thought-provoking as the efforts of Acharya Vinoba Bhave were in the conflicting regions of passion and ruthlessness to bring a sense of sanity to a misguided people, they were bound to flounder on the rock of ignorance, poverty and the psychological make-up of the criminals to whom dacoity had become through generations a symbol of adventure and heroism, more creditable because it gives them a thrilling experience in an otherwise colourless and inconsequential existence. The limited success which attended the mission brings also to the forefront the inherent weakness arising from the absence of a positive and specific programme of tackling the sociological factors in the ravines. In saying this, it is not the intention to minimize the significance of a great experiment in criminology which had inspired a noble soul. The mission and the controversies it raised—reflect not the failure of an outstanding idea, but only the limiting factors in our incessant battle against crime.

6

Faction And Feud

THE Government of India's report on crime for 1959 shows that during that year as many as 26987 cases of rioting occurred in the country registering a further rise from the 24992 cases reported in the preceding year. Increase in this type of crime was particularly noticeable in Bihar, Kerala, Andhra Pradesh, Bombay and Assam. Except in the two cities of Bangalore and Madras, this type of crime was also on the increase in all the big cities as compared to the previous year. The rise was ascribed in Assam to land disputes and communal troubles ; in Bihar to land disputes and political and public feuds ; in Kerala, to political agitations ; in Delhi, the increase was attributed to tensions between rival groups and other agitations.¹ Since the maintenance of order and the prevention of breaches of the peace constitute the fundamental task of the law enforcement agencies, it is worth-while examining this category of crime with particular reference to group tensions.

The periodic outbursts of communal violence prior to 1947 naturally figured large in the day to day work of the law enforcement agencies in the country. The prevention of disorder and the suppression of riotings were major problems which faced the police. Attention had to be paid to the regulation of religious and communal processions and gatherings, control of crowds on festive occasions and localization of isolated instances of communal fights and quarrels. Playing of music before mosques, movement of processions through areas predominantly populated by the opposite community, cow-slaughter, and elections were in main the immediate causes which touched off communal clashes. An indiscreet word, an improper gesture, a tactless speech—any of them could cause a riot and result in

¹ Government of India, *Crime in India—1959*.

serious loss of life and extensive damage to property. It therefore needed all the alertness and vigilance of the police, the continued mobilization of their resources and the assistance of extensive legislation which gave them power to regulate processions and meetings or to ban them altogether if the situation so demanded.

1946 was a black and dismal year in India's history. In a country frustrated by political stalemate and mounting tension between the two communities, the observance of the Direct Action Day by the Muslim League to protest against the setting up of the interim government was the beginning of a new chapter of violence and defiance of authority. In his appallingly gruesome chronicle, G. D. Khosla gives a vivid account of the brutal forces of murder, loot and arson which were let loose in the four days following the sixteenth of August, and how a band of workers including two judges of the Calcutta High Court found the task of clearing the streets of Calcutta of dead bodies well-nigh impossible. He gives the figure of 3173 bodies as having been disposed of by humanitarian organisations in those difficult days which constituted the Great Calcutta Killing.²

On September 2, 1946, when the Indian National Congress assumed office, rioting broke out in the Muslim localities of Bombay. Three days later, there was recrudescence of trouble in Calcutta. They were merely indications of the greater furies to come. In October, the districts of Noakhali and Tippera in Bengal were in flames. Looting and arson were on a gigantic scale and Gandhiji who went to Noakhali "to wipe away the tears of outraged womanhood" saw wherever he went the monotonous story of man's ruthlessness in the charred remains of broken homes. "My heart weeps before God," he said, "although my eyes have no tears."³

The happenings in Calcutta and Noakhali were to have equally serious repercussions in Bihar. On September 27, a bloody riot occurred at Benibad in Muzaffarpur District, the immediate cause being an alarming rumour. It was not till the middle of October, however, that the situation took

² G.D. Khosla, *Stern Reckoning*.

³ *Ibid.*

a critical turn. From the 25th of October till the fourth of November, the Hindus went berserk and a terrible exhibition of mob frenzy followed. The police and the army had to open fire on 89 occasions, killing 393 persons.⁴ The mob fury which was in the nature of retaliation did not abate till the Prime Minister himself undertook an extensive tour of the province.

All these eruptions, grisly and macabre as they were, were nothing in the light of the subsequent events, in the months immediately preceding the partition of the country and after the establishment of India and Pakistan. The extraordinary uprooting of populations, the exodus, the heights of frenzy, and the breakdown of the agencies of law and order in both the countries struggling to survive, are matters of history and have no place in a book on crime. But it is also a history of crime—of murder, loot, arson, rape and vandalism. The abduction of women and the treatment to which they were subjected which included ravishment, forced marriages and conversion constitutes a very sordid chapter in the history of 'human relations'.

The establishment of a secular state in India, the Government of India's enlightened policy and the constitutional rights and freedoms enjoyed by all sections of Indians irrespective of caste and creed, have helped in controlling, and to a great extent, suppressing the ugly forces of communalism. Public opinion has crystallized strongly against communalism, and under the inspiring leadership of Pandit Nehru, the nation continues to strive for the emotional integration of its people. Although, occasionally, isolated instances of communal clashes occur emphasising the utmost need for law-enforcement agencies to be well-prepared and alert, such instances are fortunately few and, what is more important, are progressively dwindling. It is, therefore, reasonable to expect that this source of crime will be totally eliminated in the near future.

In recent years linguistic differences have also contributed to this type of crime in some measure. The disturbances in Assam in 1960 indicate to what extent such differences, if uncontrolled, can lead. The riots in Ramnad District

⁴ G.D. Khosla, *Stern Reckoning*.

between two communities in 1957 are an example of riots arising from petty sectarian differences.

Riots and breaches of the peace originating from communal and linguistic animosities, however, form only a very small fraction of the total number of cases reported under this category. The majority pertain to land disputes and feuds in villages. The unfortunate legacy of the caste system which tended to create narrow channels of thought and a tendency to think and act in terms of little groups is the main factor in the creation of tensions. The break-up of the joint family system is another. There are a number of instances too where blood feuds have been carried on between two branches of a single family. In villages so affected, unending criminal and civil litigation is the heritage of their residents and it is really intriguing to see with what fervour and determination they are pursued as matters touching the honour of the leaders and their forefathers. The recent developments consequent on the introduction of democratic forms of government, periodic elections and introduction of local-self government through Village Panchayats have, in some cases, sharpened the old animosities wherever they existed or given them a new twist.

To the policeman, the long-standing factions in a village call for continuous vigilance and extreme care in dealing with the rivals. A dispassionate analysis of factional quarrels usually reveals the extreme triviality and at times, the ridiculousness of the motives which prompt simple village folk to raise between themselves formidable barriers of hatred and suspicion. Among the causes which have been responsible for some of the bitter fights and serious loss of life in the past are : the right of worship of the village deity ; priority in temple honours ; land disputes ; and jealousy. But behind these simple factors, however, lies the background of struggle for supremacy in the village. Not infrequently the differences between two groups are fanned and exploited by unscrupulous men for their own ends. When passions are roused over a continuous period, clashes are inevitable and result in loss of life and serious injury to the participants. The clashes leave behind them a trail of

suspicion and vindictiveness which affect the village in multitudinous ways.

An impression may be gathered from the foregoing that all villages are factious and are riven by incessant fights and quarrels. Nothing can be farther from truth. The majority of villages live in comparative peace and amity between different sections and castes, and life goes on in an even tenor. But in every state there are certain areas or districts which are notorious for factions and continuous feuds. For example, in Andhra Pradesh, the districts of Cuddapah, Kurnool and Anantapur and the Palnad Taluka of Guntur District are noted for factious murders. In a way, the feuds are reminiscent of primitive blood feuds which are associated with warring clans in tribal society. The primitive blood feud was merely the expression of the clan's solidarity which adjusted most of the public wrongs in society. It is based on the fundamental concept of punishment—"eye for eye and tooth for tooth". Hence it became incumbent on the group to avenge any wrong done to any of its members. Most of the feuds in the present day follow a similar pattern suitably adjusted to the modern institutions of the police and the judiciary. At times the sheer brutality and scant respect for human life are staggering. The problem is further complicated by attempts to drag into these bitter controversies people who are even remotely connected with the villages, not to speak of the direct participants including the law-enforcement agencies. Criminal and civil litigation with allegations and counter allegations against the officials who are entrusted with the maintenance of order is carried on relentlessly to the extent of bankruptcy of both the sides. Hundreds of families have been totally ruined in these unsavoury and purposeless struggles.

It is possible that ecological and climatic factors have a deciding effect on the character of the people. But more than climate, it is the impact of extraneous influences on the local culture which creates conflicts and acute rivalries. In the arid ravines of Madhya Pradesh, factions have contributed to the emergence of dacoits. Similar conditions prevail in the rural tracts of Rayalaseema where village fights during the last quarter of a century have figured in some

of the most sensational criminal cases. The same conditions of backwardness and rugged living are prevalent in Palnad, an arid region in Guntur District which is historically famous for the battle of Palnad, a gory climax to a long standing faction between two rival groups of feudal chieftains. The unfortunate tradition is now carried on in almost all villages where bitter factions exist even today. In the village of Zoolakallu in the year 1957, a group of twenty persons, armed with swords and spears stopped a passenger bus, dragged the leader of the opposite faction and butchered him in broad day-light to the horror of the passengers. In Adigoppula, a village faction which lay dormant over a number of years suddenly flared up in a series of murders and riotings, the immediate cause being the Village Panchayat elections. In Ambapuram the wife of a faction leader who was killed in a fight vowed that she would not remove her caste mark nor break her bangles which denoted married state unless the leader of the opposite group was eliminated. In Cuddapah and Kurnool districts, the use of fire arms is very common. In one case in Kurnool district, a number of persons armed with twelve bore guns surprised their enemy while he was getting down a step-well to fetch water and shot him dead in the very presence of his stunned wife. In a village near Hyderabad an entire family of five was killed brutally, thrown into a hay-stack and set fire to. According to a news-paper report dated September 16, 1960, seven persons including two women were killed and one seriously injured in a clash that occurred between two factions of Ahirs belonging to the villages of Dhani Kulana and Dhani Shoba in Rewari Tehsil, Gurgaon, over the possession of a piece of disputed land.⁵ It is not uncommon for factionalists to attack the houses of their enemies at night and set fire to them after barring all passages to prevent the inmates' escape. An old villager who had been an active member in rural factions in Rayalaseema about twenty years ago confided that although he had taken part in a score of faction fights resulting in murder, he was actually arrested only on two occasions and was never convicted.

⁵ *The Times of India*, Sept. 17, 1960.

He was extremely religious and performed *pooja* regularly ; but he declared without hesitation that if he had to relive those days he would gladly play the same part again. The same attitude is reflected in most of the leaders of factions who have nothing but contempt for the normal processes of law and swear by their own capacity to settle personal and community wrongs.

A detailed account of factions and the disastrous result of their growth in some villages will no doubt make engrossing reading, reflecting the elemental passions at play, but the policeman is more concerned with the immediate problems of investigating the inevitable consequences of long-standing antagonisms and preventing further deterioration of feelings. In almost every case of factional rioting, a case and a counter case are registered, but immediately difficulties arise. Each party has its own version of the incident to tell, and how difficult it is to get disinterested witnesses to throw light on the incidents can be realized only by the investigating officers on the spot. The investigating officer has to tread a wary path and endeavour sincerely to shift the truth from the maze of lies and exaggerations with which each side attempts to bolster up its case. In a big factional fight in Guntur District, the High Court took strong exception to the tendency of the police to put up cases and counter cases as though each of the opposing versions was true although they pertained to the same set of circumstances. Indeed, as pointed out by the High Court, it is the primary duty of the police to ascertain the truth of each version, determine the part played by each of the participants and the degree of aggression displayed by respective factions. That the police fail often in this task is not due to their partisanship or misbehaviour as usually alleged, but due to the machinations of the parties to utilize every factious fight or murder as a fresh point for more litigation and mutual harassment. Considering the large scale implication of innocent persons, the atmosphere of apathy and suspicion which continually surround the policeman in his work, the sullen indifference of disinterested witnesses and the most exacting requirements of law, the task of investigation is unenviable, which is perhaps not clearly understood by the presiding judges and the general public.

If the investigation of faction cases is complex and thankless, prevention of riotings and criminal offences arising from party feuds is equally beset with difficulties. Apart from the normal preventive action under section 110 of the Criminal Procedure Code, the police have tried to assuage party feelings through peace committees in some states, and in the last resort, by persuading the state to impose punitive fines and station punitive police in the more turbulent villages. The principle of forming peace committees is undoubtedly good and in some cases they have had some success, but in general, they are surrounded by an artificial atmosphere, since the inherent causes of friction remain. The imposition of punitive fines has had more lasting results, but there is an understandable hesitancy to have recourse to them.

The technique of dealing with factious crime in the fields of prevention and investigation, presents to the police a challenge of a most trying and arduous nature. They have to adopt all measures, to the extent of utmost severity in the interests of common good. A socio-economic programme of community development may in the long run turn the vindictive activities of restless villagers into more fruitful channels and establish harmony. Education and enlightenment will also be powerful factors in eliminating blood feuds which have poisoned the rural atmosphere for generations. But in the meantime, more than anything, it is the impartiality, the sense of preparedness, the capacity and sincerity of purpose of the policemen that can play a dominant role in controlling factions and preventing outbreaks of violence. There have been a number of instances where merely on account of the reputation and massive precautions of local police as well as their ability to keep in close touch with dangerous trends and to take timely action, factions and communal hostilities have been kept under check over extended periods. If some could achieve it, there is no reason why others cannot do the same, however thorny and irksome the road may be.

7

Background To Murder

ALTHOUGH a simple classification of the causes of murder in India leads to the popular concept that "it is attributed to one of the three causes—*Zan, Zar, Zameen*,"¹ it does not take into consideration the profound motivations which are disguised and hidden in the complex personality of the murderer. To the investigator who is mainly concerned with bringing the criminal to dock, this simple classification generally suffices as it helps him to forge the inexorable chain of legal evidence, but it is at best an incomplete analysis of causes. Every anti-social act is now attributed to the inner forces which lie beyond the knowledge and the consciousness of the criminal and it is much more so in respect of a crime whose implications are more devastating than any other type of crime.

The large number of murders committed every year in India is not only baffling, but when compared to other countries, the U.S.A. excepted, indicates an alarming crime situation. During the year 1958, as many as 10661 murders were committed in India.² The majority of the cases were reported to be due to party and political feuds, sexual intrigues, revenge, and land troubles, while a few were ascribed to the element of gain and lust for killing.³ The statistics are impressive enough. On a computation, a murder occurs in this country every hour, and each year as many as twenty thousand persons are arrested on charges of murder and connected offences which are equally grave.

The volume of murder per hundred thousand of population is very high compared to other countries. According to David Abrahamsen, "the general background of murder is more or

¹ J. C. Curry, *The Indian Police*.

² Government of India, *Crime in India—1958*.

³ *Ibid.*

less characterized by the same factors which cause crime in general. Murder has psychological root in the person's aggressions related to attack and defence. These are the expressions of the fight for survival or may be due to an erotic drive, no matter how distorted or concealed it may be."⁴ Therefore, when we deal with murder from a psychological angle, it is impossible to ignore other factors in crime causation.

Every country develops a pattern and a culture peculiar to its conditions. The vastness and heterogeneity, the emphasis on religion, the hold of superstition, illiteracy, caste system, joint family system, the waves of invasions, and the interplay of multiplicity of languages and religions have all contributed to a culture which is characteristic of India's social evolution. In a country which is teeming with a rapidly increasing population, life is cheap, and its destruction—violent or normal—is a part of the scheme of things to be accepted with a sense of resignation. While some of the factors like superstition and village factions are likely to disappear with the gradual enlightenment of the community, new factors are taking their place. For example, consequent on the impact of modern civilization and industrial expansion, emotions will inevitably be pitched on immediate objects from a personal point of view rather than an organized effort in the service of the community as a whole. Thus new conflicts are under creation bringing forth an intensification and reorientation in antisocial activity including murder.

It will be interesting to examine the trends of murder in different states of the country. It is highest in Madhya Pradesh (4.6 per hundred thousand of population), closely followed by Bombay (4), Assam and the Punjab (3.7), and Mysore (3.3). All these states exceed the all-India average of 2.95 for 1958. The large number of murders in Madhya Pradesh is also reflected in the high incidence of crime in that state—271.3 per hundred thousand of population. In general, the incidence of murder follows the general crime trends except in West Bengal which has a heavy incidence of crime but whose record in murders is less than the all-India average.⁵

⁴ David Abrahamsen, *Crime and the Human Mind*.

⁵ Government of India, *Crime in India—1958*.

The Indian Penal Code defines murder as an act causing the death of a human being with the requisite knowledge and intention. There are a number of exceptions which reduce the degree of murder and even exonerate the perpetrator from the consequences of his act. The most important of these exceptions is the one pertaining to the state of mind of the criminal. The law disregards crimes committed by children under seven years of age or by children between the ages of seven and twelve if they have not attained sufficient maturity to understand the nature and the consequences of their conduct. The law also disregards crimes committed by a person who at the time of committing them is, by reason of unsoundness of mind, incapable of knowing the nature of the act or that he is doing what is wrong or contrary to law. Here, we are mainly concerned with the last exception which provides that an insane person cannot be tried or punished, as no court can correct him by punishment.

It is significant that the framers of the Code have omitted to use the words 'lunacy' or 'madness' and have merely attempted to specify the mental condition as one of unsoundness of mind, which, however, they did not define. The wide divergence between legal insanity and medical insanity has raised issues of great importance in the administration of criminal justice. Since the plea of insanity is an exception, it is generally held that it must be proved in defence. In practice, however, the observance of this principle rigidly may undo the benefits of the law. In the circumstances, it devolves on the court to find out, by all the means available to it, the mental state of the criminal in all cases where there is no motive or preparation for the crime. And yet, we find different courts approaching the problem from entirely different angles. In a series of motiveless murders committed by Kulandai Tewar, the Madras High Court imposed a very lenient punishment on the ground of mental derangement which was inferred from the very motivelessness of the crime.⁶ But in a recent case the same High Court refused to reduce the sentence of death imposed on Rajagopal Iyengar who murdered four of his children and attempted to kill his wife for no apparent reason.

⁶ Hari Singh Gour, *The Penal Law of India*.

Their lordships felt that they could not take upon themselves the responsibility "of recommending for a comparatively short term of imprisonment for a man who has been once a victim of homicidal frenzy and expose other innocent persons for a similar attack after his release."⁷ What is perhaps significant in these cases is not the extreme divergence of opinion, but the fact that decisions were reached without recourse to comprehensive psycho-analytical examination of the accused and without ascertaining what inner forces might have driven them to such purposeless crimes.

These cases illustrate the difficulties that confront judges in distinguishing whether a person is legally sane or not. We are still guided in this matter by the answers which the judges gave to the House of Lords in the famous M'cNaughten case. The psychiatrist expresses the opinion that no act should be regarded as a crime if, at the time that is done, the person who does it is prevented by defective mental power or by any disease affecting the mind from controlling his own mind. Before however touching upon the controversy which has engaged eminent jurists, psychiatrists, and criminologists for more than a century, it is necessary to understand the psychological approach to homicide.

The motives which lend murders a distinct colouring enable the psychologist to classify them into two prominent groups, *viz.*, symptomatic murders resulting from inner conflicts and manifest murders which are primarily directed against society⁸. Symptomatic murders are further classified into murders on account of a distorted erotic drive which may be caused by jealousy or in the course of a sexual crime ; or murders due to an aggressive drive which may be due to alcoholism, substitution or physical inferiority. Manifest murders which are directed against society may be for profit or due to unknown causes.

The statistics of murder in India show that the majority of the cases are the result of jealousy arising from frustrated love of either partner. Because an individual believes that he possesses his partner, any act of infidelity arouses in him

Hari Singh Gour, *The Penal Law of India*.

David Abrahamsen, *Crime and the Human Mind*.

a sense of injury to his prestige and self-esteem. This self-esteem, according to psychologists, is redeemed and reestablished by murder. It is in recognition of this psychological concept that the prevailing opinion that since a person has no exclusive possession of his mistress, the latter's infidelity is no provocation entitling him to claim mitigation of his crime, has been revised. In the case of one Pothuraju who killed his mistress in a sudden fit of anger provoked by her unfaithful conduct, the judges observed, "One cannot apply considerations of morality to a purely psychological problem. We find it impossible to agree that the fact that Mahalakshmi was the appellant's mistress and not his wife makes any differences."⁹

Among other types of jealousy murders are those arising from a man's love for his mother which prevents union between him and his wife. Perhaps more common in India are the reverse situations where termagant women kill their daughters-in-law in bitter frenzy of hate and sense of neglect. Abrahamsen is of the opinion that this type of crime is an expression of hatred and jealousy with its roots in the Oedipus Complex of the individual. He also comes to the startling conclusion that the personality conflict in the mind of the criminal may influence it distinctly. A young person thwarted in love will kill his partner whereas an older one will kill the rival more frequently, which is ascribed to sexual inadequacy of which the accused may be only vaguely conscious.¹⁰

Murders due to aggressive drive belong to a separate category, of which the most frequent are alcoholic murders. In India, drunkenness plays a big part in assaults, riotings and murders. In almost all cases where assassins are hired, they are supplied with alcohol to create a defiant sense of irresponsibility. The Indian Penal Code provides mitigation for crimes committed under the influence of alcohol, but cases of voluntary intoxication are omitted from its scope. This is correctly so, since no man can be permitted to wear the cloak of immunity by getting drunk. To this extent alcohol is a contributory factor of crime, arising from the culprit's attitude to alcohol

⁹ Hari Singh Gour, *The Penal Law of India*.

¹⁰ David Abrahamsen, *Crime and the Human Mind*.

and his state of mind at the time of crime. Indeed, the mere fact of intoxication does not convert a crime into a senseless one, as alcoholism may bring out in greater relief and higher degree of intensity the latent feelings of jealousy, hate and other motivations.

Another type of homicide due to aggressive drive is the surrogate murder which is defined by the psychologists as the murder of a person who serves as a substitute for the original victim. Gregory Zilboorg quotes an interesting case where a taxi driver murdered a passenger on account of the latter's resemblance to his father whom he hated bitterly.¹¹ Abrahamsen says that surrogate murders occur more frequently than realised.¹²

In manifest murders which are primarily directed against society, profit murders are most common and easily understood. In a recent case at Bangalore the entire family of a leading lawyer was wiped out in a most brutal manner by thieves intent upon robbery. One is no doubt shocked by the callous disregard of life which the murderers exhibited, but to the psychologist, it is essentially a simple phenomenon. The murderers in this case acted in accordance with their special concept of life and society, developed as a 'result of murder being approved by their personality ego and super-ego as well.'¹³

No other case in recent years in India has roused such popular interest as the one in which Commander Nanavati of the Indian Navy was accused of murdering a Bombay businessman, Prem Ahuja. The case is remarkable for the thrilling progress in its investigation, the sensational turns in the course of the trial, the unprecedented interest which the public evinced due to the social status of the persons involved in the tragic drama, and the complex legal and constitutional issues it raised. On April 29, 1959, Commander K. M. Nanavati was second in command of I.N.S. Mysore which was berthed in Alexandra Dock at Bombay. Nanavati was married to Sylvia in 1949 at Portsmouth and they had three children. In October 1954, the couple were introduced to the thirty

¹¹ Gregory Zilboorg, *Some Sidelights on psychology of murder*.

¹² David Abrahamsen, *Crime and the Human Mind*.

¹³ *Ibid.*

year old Prem Ahuja and his sister, Mamie. It was alleged that, shortly after the introduction, Sylvia had developed an intimacy with Ahuja and expressed her desire to leave Nanavati. On the fateful morning of April 27, Nanavati and Sylvia took their sick dog to the veterinary hospital and purchased some tickets at the Metro Cinema for the three-thirty show. Just before lunch, while they were in the sitting room, Nanavati put his arm round Sylvia affectionately, but gathered an impression that she became tense. She was reported to have said : "Don't touch me. I do not like it."

After lunch, Nanavati decided to thrash out the differences that had cropped up between them and asked Sylvia whether she loved him still, but she did not reply. With some significant incidents still fresh in his mind, Nanavati asked her point blank whether Prem Ahuja was her lover and she affirmed it was so. To a question whether she had been faithful to Nanavati, she shook her head to indicate 'no'. According to the statement of Nanavati, he asked her if Ahuja was prepared to marry her. Sylvia murmured something, but gave no proper reply. Nanavati asked whether she would not see Ahuja for the sake of the children if he forgave her. Again she gave no reply. Nanavati said he was stunned. He told Sylvia : "I must go and settle this matter with the swine". Sylvia warned him, "Don't go there, he may shoot." Nanavati said, "I don't care, and in any case I am going to shoot myself."

Thereafter events followed a remorseless pattern. Nanavati took his wife and children to the cinema, left them there and proceeded to his ship. There, he drew a revolver and six rounds of ammunition and went to the office of Prem Ahuja in Pedder Road. Not finding Ahuja at his office, Nanavati made his way to the former's flat and broke into the bedroom where he was alleged to have shot at Ahuja thrice and injured him mortally.

At the sensational trial Nanavati put up a strong defence that there was a struggle for the revolver and that it went off accidentally and caused Ahuja's death. The special Jury brought in a majority verdict of 8 to 1 of not guilty on charges of murder and culpable homicide not amounting to murder. The Sessions Judge, however, disagreed with

the verdict on the ground that in his opinion no reasonable body of men could arrive at this verdict on the evidence on record. He therefore referred the case to the Bombay High Court under Section 307 of the Criminal Procedure Code.

The hearing of this reference by the High Court of Bombay lasted over eighteen days. Justice Shelat, who delivered judgment on the ninth of March, 1960, disbelieved the accident theory of Ahuja's death and found Nanavati guilty of murder and sentenced him to rigorous imprisonment for life. "There is no doubt", he said in the course of his judgment, "on the record of the case that the deceased blighted the career and the happiness of the accused, a man of courage and honour. He was bound to feel with extreme sourness the deepest of injuries that the deceased had brought on him and his domestic life. There is nothing surprising or abhorrent in the way the accused took in avenging the injury. But the law of this country does not permit the avenging of a wrong by taking the law into one's own hand. We have to administer the law objectively no matter what others think." A few days later, Justice Naik delivered a similar judgment.¹⁴

It is not relevant to discuss here the legal and constitutional issues which arose following the State Governor's decree suspending the sentence pending the disposal of the appeal in the Supreme Court or to recount the unusual hysteria of crowds, and the bitter controversies in the press and on the platform, although they would make a fascinating story. Stripped of its importance and sensational element consequent on the social standing of the persons involved, the case is merely one of the thousands that are reported annually. An analysis of the various categories of murder in this country brings out sexual causes as the most predominant. The case of Commander Nanavati follows the usual pattern of conjugal infidelity and emotional stresses leading to irresistible provocation for murder. The Indian Penal Code provides that sudden and grave provocation is an extenuating factor

¹⁴ The details of the case have been extracted from the judgment of Justice Shelat published on March 10 in the newspapers in India.

which reduces the degree of heinousness of crime. This is indeed a concession to the unpredictability of human behaviour occasioned by emotional impulses. But there, the Code stopped. Where there is premeditation or sufficient time for the anger to cool, and the individual is in a position to know what he is doing or that what he is doing is wrong, he does not get the benefit of this exception, however justified he may be morally. Here is an instance in which the presiding judge felt that there was nothing abhorrent in the way the accused took in avenging the injury, and yet we find him tied down to a rigid law. The point therefore is not the right or wrong of the judicial decision, but whether the present law is really adequate to meet the new situations arising from complex reactions of the human mind.

The avowed object of administration of criminal justice is the protection of society and the continuance of the orderly life of its members. Time and again, instances of conflict between an individual's ethical concept, based on contemporary social codes, and the concept of law, framed in the interest of the majority, clash. The popular resentment at the unexpected turns which the Nanavati trial took and the bitter controversies that followed, were essentially the result of confused thinking.

The case is of immense interest to the student of crime not only from the constitutional and legal angles, but from the point of view of the psychologist. It is true neither the plea of insanity nor of grave and sudden provocation was put forward in defence, for Nanavati knew fully well what he was doing when he fired the fatal shots, and he had not only time to allow his passion to cool, but to prepare his plan of action deliberately. And yet, a sympathetic reading of the proceedings of this sensational case reveals the emotional stresses under which he must have laboured till he relieved himself of the burden by the act of murder. Nanavati was essentially a gentleman ; and had to his credit a brilliant career in the Navy ; a man respected and loved by his colleagues. All the same, neither his position in society nor his achievements in profession would entitle him to take the law into his hands and deal summary justice to a person however despicable he might be. This is not the first time that

difficulties have arisen from the clash of law and ethics or in regard to the assessment of criminal responsibility in instances occasioned by intense emotional stresses bordering on temporary insanity.

This is not a new subject. It has dominated the legal scene from the time the fifteen judges gave their answers in the M'cNaughten case in 1843, and has been the subject of a vast amount of literature. Already, some courts in the United States have repudiated the age-old right-and-wrong tests on the ground that where criminal acts stem from mental disease and defect, there is no criminal responsibility. Thus we see that a change in the old concepts is already stirring, and it will not be hazardous to guess that this country which has so long followed the English Law in this regard may begin to think on fresh lines.

The question assumes considerable importance in borderline cases of persons mentally abnormal without being insane in a legal sense. Some States in the United States have conceded the principle of irresistible impulse which affects a person's will, although he may understand the consequences of his act.

The present day psychiatrists consider the M'cNaughten rules to be unsound on the ground that they concentrate only on cognition and ignore the remaining aspects of volition and emotion which form part of mentation.¹⁵ In ignoring the role of the unconscious, the criminal law is handicapped by its ignorance of the true nature of many crimes. The word 'know' in section 85 of the Indian Penal Code reflects the scientific thought prevalent at the time which assumed that knowing "was one of the desparate mental faculties, each of which had its own locus in a particular part of the brain."¹⁶ But in recent times there have been revolutionary changes in the science of psychology itself and in the concepts of the term 'mind'. In 1952, Dr. Winfred Overholder explained: "What we generally term 'mind', is an abstraction, an inclusive word which signifies the sum total of the ways in which the individual acts as a whole in response to the stimuli, internal and

¹⁵ Henry Weihoffen, *The Urge to Punish*.

¹⁶ *Ibid.*

external, which are constantly playing upon him." Therefore, so long as criminal law ignores the emotional drives and unconscious motivations in crime, it has to be considered as inadequate.

With the realization that the right-and-wrong test contemplated in the M'cNaughten Rule is unscientific, there has been a renewed search, both in the United States and in England, to find an alternative. In the famous Durham case (United States) it was held that an individual could not be held responsible for his criminal acts where they were the product of mental disease and defect. The Royal Commission on Capital Punishment in England (1953) held similar views. The American Law Institute went a step further in suggesting the replacement of the M'cNaughten Rule by a provision that "a person is not responsible for criminal conduct if at the time of such conduct as a result of mental disease or defect he lacks substantial capacity either to appreciate the criminality of his conduct or to conform his conduct to the requirements of law."¹⁷

Although the Government of India is reported to be seriously thinking of amending the law relating to lunatics "to bring it in tune with the modern concept of social life"¹⁸ it is highly doubtful whether the revolutionary proposals of the American jurists will find general acceptance in this country. When the Indian Penal Code conceded the effects of sudden and grave provocation which momentarily impairs the cognitive faculties of man, it had in a limited way accepted the principle of irresistible impulse. But the immediate difficulty which confronts us is the fact, now accepted by all psychologists, that although 'impulse' suggests an urge that is sudden, there are innumerable cases where it manifests itself over a long period. The criminal act in such circumstances may be the reverse of impulsive. It may be coolly and carefully prepared ; yet, it is still the act of a mad man.¹⁹

While there is thus an awakening to the need for understanding the psychiatrist's view of human mind and to

¹⁷ Henry Weihoffen, *The Urge to Punish*.

¹⁸ The Times of India, *Editorial* dated November 30, 1960.

¹⁹ *The Report of the Royal Commission, England*.

bring the criminal law in conformity to it, there is equally vehement opposition to the 'esoteric jargon of psychiatry' and the apparent inexactitudes of that science. The suggestion to modify the existing law to include irresistible impulse has been rejected by eminent jurists on the ground that it is "thoroughly unnecessary, mischievous and detrimental to public weal"²⁰. Referring to the psychiatrists as false guides who give misleading advice and propagate wrong principles, Justice P. N. Ramaswami of the Madras High Court said: "The only consoling feature is that their statements are so often extravagant and absurd that no sensible magistrate or administrator or legislator listens to such twaddle . . . So let us avoid the so-called psychiatrists and stick to the well-tried M'cNaughten Rules embodied in the I.P.C when dealing with insanity and irresistible impulse."²¹ The Times of India, writing editorially on the contemplated changes to bring the law relating to lunacy in tune with modern concepts expressed a common fear which is not baseless : "The genuine lunatic is entitled to sympathy, but too wide or too loose a definition of insanity would spell an intolerable danger to Society."²².

Whatever may be the reactions of the orthodox jurists there is no doubt that modern science has opened up new vistas in the mysterious realms of human mind and the law has inevitably to fall in line with the rapidly growing scientific knowledge. A few latest findings are sufficient to convince the sceptic of the new lines in which future action will lie. The close relationship between the amount of sugar in a person's blood and his social behaviour is now confirmed. Aggressive and violent crimes can be committed under the influence of insulin or in a state of hypoglycemia. Lack of calcium is also a contributory factor in creating anti-social attitudes. As regards the relationship between glandular activity and aggression, Thyroxin is reported to increase excitability while lack of parathryn leads to the same result.

Perhaps the most remarkable developments have occurred in the field of neuro-physiology where the use of new drugs

²⁰ Lord Hewett, *Essays and Observations*.

²¹ P. N. Ramaswami, *Magisterial & Police Guide*.

²² *The Times of India*, November 30, 1960.

in mental illness has shown some outstanding results. Penicillin has been found to be effective in destroying the spirochetes of syphilis in the brain. Insulin can relieve a large number of victims of schizophrenia, the most common form of psychosis. Chloropromazine and Reserpine promise to give excellent results in the treatment of schizophrenic disorientation. Derivatives of Rauwolfia are expected to be very useful in fighting against various forms of mental illness including mental deficiency. Another new drug Metatran can be very useful to patients who need to be lifted out of severe depressions. Summing up the phenomenal progress made in the field of bio-chemistry and medicine, Henry Weihoffen concludes his thought-provoking book with the prophetic words : "We have probably seen only the beginning of a study of pharmacological means of sedation and anti-spasmodic medication to help people deal with their tensions."²³

In view of these far-reaching discoveries which enable mental patients to be cured in comparatively short periods, the criminologist and the psychiatrist contemplate inevitable reactions on the criminal law. The day may not be far off when our concepts of legal sanity may undergo a revolutionary change ; and even in so heinous a crime as murder, greater emphasis will be laid on the emotional stresses that drive a man to the act.

²³ Henry Weihoffen, *The Urge to Punish*.

8

Alarums And Excursions

EVERY city in India, in recent times, has witnessed serious riots and mob-violence arising from political and quasi-political agitations. The policeman, entrusted with the maintenance of law and order, has no politics ; he has to ensure the even tenor of community life and prevent the agitations from degenerating into orgies of mass violence. He, therefore comes into sharp conflict with political groups organising demonstrations and other popular expressions of protest and as the immediate representative of established authority, earns vehement criticism which is generally unjust. Such criticism should not, however, lead to despair or create a sense of frustration in the policeman, for the very nature of his duties involves the need for countering popular clamour and prejudice with good-humoured stoicism. What is of course of immediate interest is the effect of political agitations on the development of a sound police system in the country and on the growth of healthy police-public relations within the frame-work of a welfare state.

The pattern of agitations in India is made up of processions, rallies, mass meetings, *hartals*, picketing, and defiance of law in multitudinous ways. A person loses his individuality in a crowd and identifies himself with the objects of the crowd. Mobs are notoriously fickle, and where they are exercised powerfully by a live political issue, their conduct is uncertain. The leaders start usually with professions of peaceful approach, but when frenzy and intense excitement overtake a crowd, all sobering influences are thrust aside. In the resultant confusion anti-social elements and fanatical groups take command of the situation and embark on irresponsible courses of action leading to extensive damage to life and property, through looting and arson. Once the conduct of a

demonstration goes out of hand, it requires all the energies and the concentrated efforts of the state to restore normalcy. Attacks on railway stations, post offices, individuals, setting fire to buses, and stoppage of trains have often followed popular campaigns.

In the last ten years, India has witnessed a very large number of agitations in all parts of the country which have at times degenerated into deplorable outbursts of lawlessness and violence necessitating drastic measures by the law-enforcement agency. In the premier cities of Calcutta, Bombay, and even in the comparatively quieter Madras, agitations have been whipped up on the slightest pretext to over-awe the government. The issue may be a major political dispute or a trivial matter like the rustication of a University student or the raising of tram fares, but popular frenzy was worked to such an extent that demonstrations could not be controlled without considerable loss of life, damage to property, dislocation of normal civil life and widespread disorder. Apart from the anti-social activities of subversive political parties, the greatest damage to the country's stability has been caused by various fissiparous movements—particularly on the issue of the reorganisation of states. Bombay, Nagpur, Ahmedabad, Hyderabad (the Mulki agitation), Assam and the Punjab have been the scenes of some violent agitations in the past. Other causes of general and local importance have also been responsible for periodic eruptions of mob-violence. In Calcutta the years 1950-51 witnessed large scale demonstrations, a notable feature of which was the hurling of acid bulbs on innocent people and the police. In Kanpur, the entire city went berserk on account of the alleged bad conduct of a policeman. Not all such demonstrations, however, are violent and many are merely organised to assert the legitimate right of the people to voice their opinion on matters of public import, but difficulties arise when it is only a thin line which divides the peaceful procession from the aggressive one.

Other forms of agitation which are usually adopted are mass and individual *Satyagraha*, picketing, *hartals* and hunger strikes. The police are invariably called in to keep a watch over the agitations, since, quite often, they are the starting points of regular campaigns of defiance of law and authority.

Satyagraha is a powerful moral weapon, whose efficacy depends not only upon the stature and the personality of the *Satyagrahi*, but on the cause itself as exemplified by Mahatma Gandhi in his historic struggle with the British. It will be recalled that Mahatma Gandhi called off the civil disobedience movement when a few instances of violence and attacks on policemen at Chauri Chaura came to his notice in 1922. This unexpected step surprised many of his colleagues in the freedom struggle, but Gandhiji who believed implicitly in the righteousness of the cause would not sully it with violence.

Satyagraha or non-violent non-co-operation takes the form of breaking a law. In 1953 and 1954 the handloom weavers in Madras State tried to bring their grievances to the notice of the government by entering courts in session and disturbing their proceedings. When the police arrested them for trespass, allegations of high-handedness and cruelty were made. Breaking of laws, squatting near offices, picketing of shops, effacing name-boards are other types of *Satyagraha* which have been more recently adopted. Hunger strikes have also become a common feature in cities and big towns. They are now being undertaken for such causes as increase in pay, ill-treatment by a superior, political differences, student demands, and labour unrest. On a single day in a State capital, there were as many as seven persons on hunger strike for entirely different reasons. One of them was a student of a Unani college demanding that the indigenous system of medicine should be integrated with the Allopathic school, while another was a *chowkidar* who was protesting against the punishment imposed on him. Although most of such cases are resolved on the interference of local leaders, they do provide a headache to the police, particularly when the hunger-strikers choose a public place to ventilate their grievances. However irresponsible or trivial the demand may be, the sympathies of the public are often with the hunger-striker. At times, in view of the deteriorating physical condition of the patient, the police have no alternative but to remove him to a hospital and provide medical attention, but their action is criticised as an encroachment on the rights of the individual. A baseless rumour touching upon the health of

the Satyagrahi creates tensions and threatens law and order. The handling of hunger strikes is therefore extremely delicate and requires all the forbearance and patience of the police.

Agitational approach to problems of public interest results in violence and leaves ugly scars on the minds of the people. It creates a general sense of indiscipline among the various sections of the people. Today, indiscipline and contempt for law are much more prevalent in all classes of society than imagined. In condemning the policeman for all his official actions which he is forced to take in spite of their unpopular and unpleasant nature, no useful purpose is served. Enlightened political opinion must, however, realise that such a policy might serve the immediate needs, but in the long run cannot but adversely affect the development of healthy institutions in our infant democracy. The building up of a keen sense of discipline among the people is not less vital in the present context than the building of great multi-purpose projects.

A disquieting off-shoot of political agitations is the increasing association of the youth with them. The causes of present-day indiscipline among the students may not be attributed only to this factor, but there can be no doubt that the periodic eruptions of indiscipline in colleges and universities display a dangerous frame of mind and attitude which are totally unconnected with the immediate educational objectives of the student population. The causes for which agitations are whipped up resulting in serious clashes with law-enforcement agencies are at times so trivial that their only value lies in demonstrating that, with cool thinking and development of a rational perspective, much suffering could have been avoided. In recent years, student strikes and demonstrations originated from such causes as the rustication of a student, increase in tuition fees, appointment of a Vice-Chancellor, building a wall round a girls' hostel, quarrel with a shop keeper or a theatre owner and stiff examination papers. In one city, extensive riots occurred when some students, disappointed at a theatre's refusal to allow concession rates, formed into a formidable group, attacked the theatre and attempted to set fire to it. In a number of states, public examinations are held with the help of police, a pointer to the aggressive mood of the students under

the stress of examinations. When some invigilators caught a student copying, there was an immediate walk-out by all. In another place, the invigilators were way-laid and beaten. When some high school students were caught while travelling on trains without tickets, hundreds of their friends joined them and demanded that they should not be fined. When the ticket checking staff did not heed, the students gathered on the railway track and dislocated the entire passenger traffic. Such instances have unfortunately become fairly frequent in recent years.

One has naturally to leave a margin for the aggressive energy and the boisterous enthusiasm of the student ; but when these admirable qualities are misdirected into undesirable channels which ultimately lead to serious clashes with the law, it assumes enormous importance. The appointment of a Vice-Chancellor or a Professor is really no concern of the students, and yet we have seen how often in recent years these issues have been taken up by them in a spirit of challenge. In one city, students resented the restriction of admissions to cultural shows staged in a women's college, stormed the precincts, but before much damage could be done the police arrived on the spot. In a mofussil town differences with a local shop-keeper led to continuous agitation on the part of the students. A concerted attack on the shop had to be foiled by the police with a lathi charge and the use of tear smoke. In June 1960 the students of Rajkot whipped up a strong agitation against an increase in fees. During the course of one of their demonstrations, they surrounded the house of a legislator and indulged in violence. In the month of August the same year, a number of college students gathered at a police outpost in Calcutta and demanded the release of two students who had been arrested earlier in a criminal case. When they grew violent, they had to be dispersed with a mild cane charge.

Student indiscipline has taken more vicious and ugly forms also. In Uttar Pradesh, three of its universities had to remain closed simultaneously for some time. The violent happenings arising from the student agitation in Banares Hindu University are a blot on the fair name of one of the greatest seats of learning in this country. The University of Lucknow

has been the scene of many bitter struggles, and the agitation in July-August, 1960 was reported to be against the teaching staff whose academic attainments and integrity were questioned. On reopening¹ the university at the beginning of the academic year, one of the students undertook a fast unto death. The University authorities, who had considerable experience of the ugly turns which student agitations had taken in the past, decided on firm measures to deal with the situation and summoned the armed police for the second time in eight months. The fasting student leader was arrested and removed to a prison hospital. The result of these firm and decisive measures was the immediate collapse of the agitation. Although the police interference was at the instance of the Vice-Chancellor who sought the assistance of the government to "protect life and property in the campus" there was considerable criticism of the show of force to intimidate the students. This was countered by the state Home Minister who declared unequivocally that extraordinary measures were unavoidable in the exceptional circumstances and that he was convinced that ordinary laws were inadequate to curb the student agitation.

Dr. S. Chandrasekhar, in a thought-provoking article "Why this student indiscipline?" ascribed the deplorable trends to "the radical change of values that has crept into our society-values that affect relations between parents and children, between teachers and pupils, between the state and the citizen."¹ An inclination to ignore normal channels of ventilating grievances and to disobey authority also arises from the present socio-economic conditions which provide education without coincident levelling of economic and social inequalities. But perhaps the most important factor in the present-day student unrest is their increasing association with political parties. A healthy and enlightened interest in contemporary events is one thing; active participation in agitations, strikes, *hartals* and political demonstrations is another. Time and again we have seen how in student agitations arising from trivial causes unconnected with politics the initiative is wrested by outsiders who endow them with a

¹ Dr. S. Chandrasekhar, *Why Student indiscipline?*

distinct political colour and exploit the situations for their own ends. Dr. Chandrasekhar suggests that in every state "the various political parties should come to the gentlemen's agreement to keep away from colleges". He also suggests that the increase in the number of educational institutions without adequate facilities for extra-curricular activities has been another factor of student indiscipline and that the main task of the universities should be the provision of healthy outlets "to siphon off the students' surplus energy into creative and healthy pursuits".

We are not here concerned with the defects in modern educational system or the irregularities in the administration of educational institutions. They are important, and will have to be tackled in right earnest in so far as they help to promote the development of character in the coming generations. What we are immediately concerned with is that, under no circumstances, the youth of the country is allowed to come into ugly clashes with the law. In every defiant youth there is potential for perverse political agitation in the future, and an inclination, however concealed, to discard the constitutional ways and respect for traditions and long standing institutions. This respect must be inculcated firmly, wisely and humanely, for on the steady character and sense of responsibility of youth depends the future of India.

9

White Collar Crime

To a layman, the concept of crime is an extremely simple one—limited to murder, robbery, theft and other offences against person and property. While he is quickly touched by the misery and the suffering which traditional criminals cause to their victims, he does not normally visualise the immense damage—material and moral—which is inflicted on society by white collar criminals who operate in upper socio-economic levels and whose extreme criminality has been demonstrated time and again in bank failures, insurance frauds, financial irregularities and shady business deals. White collar crime which is the product of social disorganisation, competition and conflict is intrinsically more serious than traditional crime committed by the common thief and the petty burglar. It leads to racketeering and merges in conventional crime at an advanced stage. A white collar criminal is, therefore, a genuine criminal although he may not be prosecuted in criminal courts frequently and does not lose his social status even for large scale evasions of tax, irregularities in trade and commerce, and malpractices in governmental agencies.

The extremely thin line which separates criminal behaviour from normal conduct, the prevalence of attitudes bordering on criminality, and the general tolerance to such attitudes, have led to the study of 'white collar criminality' by eminent criminologists, foremost among whom was Professor E. H. Sutherland. While Sutherland attempted to bring white collar crime within the scope of his general theory of crime, Prof. Donald R. Taft "sought to find within the general culture cause both of violations of criminal law, narrowly construed, and of exploitative and other injurious behaviour not defined

as crime.”¹ The significance of Sutherland’s white collar crime studies lies in their revolutionary concept of crime and its causation.

According to Sutherland white collar crime is the modern manifestation of the ‘something for nothing’ complex which pervades the world. How true it is in India today ! In spite of a rich spiritual heritage and even while the life and teachings of Mahatma Gandhi are still fresh in our minds, a new materialistic philosophy has gripped the nation. The philosophy of white collar crime is that success and material advancement are the only important things that matter in life, and in achieving them one need not hesitate to adopt unethical conduct. It develops an attitude of contempt for those who are still left with some scruples as impractical idealists who deserve the failure which is normally their lot in this competitive world. Not a day passes without our hearing of a big defalcation or embezzlement, a shady deal or a scandal in public administration. The stakes in the game are usually big and the persons involved are at times men with high social standing. A time has therefore come to make a reappraisal of our concepts of crime and criminals. Nothing can be more erroneous than to continue to look upon our criminals as creatures of circumstances, offspring of criminal tribes and products of economic disorganization or domestic disharmony. In the words of Barnes and Teeters : “Although we must continue to focus our attention on the underworld of crime, we must recognize the overworld of respectability that permits crime to flourish. Those who deal with crime problems should not only become alert to the fundamental and significant changes in crime patterns, but should adapt their thinking and tactics to the realities of the twentieth century.”²

The pervasiveness of white collar crime is the most significant development in modern society. No profession or occupation is excepted from its influence. From time to time newspapers publish accounts of irregularities at high levels in purchasing missions, forward trading and speculation in stock markets, unethical practices in administrative machinery,

¹ Donald R. Taft, *Sociological Research in the United States of America*.

² Barnes and Teeters, *New Horizons in Criminology*.

embezzlement of funds of philanthropic institutions, tax evasions and flagrant violations of financial canons for personal gain. That many manage to escape the consequences of their activities, and in fact success and social recognition come to those who can successfully outwit governmental agencies is the most powerful incentive for increasing white collar criminality. Rapid urbanization, the break-down of the joint family system, growth of intense individualism, slackening of social and religious restraints and the enormous growth of population have all contributed to a culture with more emphasis on materialistic advancement, however deeply we may cherish our spiritual heritage. Of the culture conflicts in the United States of America, Taft said : "In spite of our faith in law, Americans do not expect obedience to all law, and law-breaking in this sense is in our culture."³ What is said of the U.S.A. is equally true of India, still in the infancy of democracy.

A few typical cases are sufficient to indicate the growing extent of white collar crime in India. Some years ago, a man about town of Mysore collected lakhs of rupees from his innumerable clients among whom were famous scientists, politicians, big business men and leaders of society, and hundreds of middle class people who invested all their savings. There was nothing unusual in the methods adopted by the well-mannered gentleman except that he promised alluring rates of interest on the capital invested with him. Since the transactions were no more than taking capital from Paul and paying interest to Peter, all was well for some time. The craze for investment in this fantastic money circulation scheme reached such heights of frenzy that investors all over the country began to flock to this insignificant man who came to be looked upon as a financial genius. In course of time, however, the bubble burst with far-reaching consequences. The case merely illustrates the inherent weakness of large sections of people in respect of financial investments and how difficult it is to protect the gullible from the machinations of such sharks in spite of legislation.

In 1957-58, an affable businessman, Harprasad Tuljaprasad, opened an imposing office in the business centre of Hyderabad

³ Donald R. Taft, *Sociological Research in the United States of America*.

and gained the confidence of unsuspecting bank agents by ingenious methods. He lived in high style, entertained lavishly and created an impression of an astute financier. On the strength of his social standing, a number of banks gave Harprasad substantial overdrafts on bills of lading and railway receipts in respect of bogus consignments of dyes (which in fact contained no more than chalk powder) to fictitious parties. When the game finally ended, the banks found themselves at considerable loss and their respectable client was an inter-state cheat wanted by many states in India.

In recent years a big racket has been developed in forging passports and selling them to intending travellers at fabulous prices. Some travel agencies were involved. Two business concerns of Bombay were alleged to have obtained import licences, worth about 44-lakhs of rupees on the basis of forged letters of authorization, purporting to have been issued by the Chief Controller of Imports and Exports. 58 firms were found to have obtained 139 licences valued at Rs. 49,83,128 by misrepresentation on the basis of forged documents.⁴

The Special Police Establishment dealt with 4531 complaints involving bribery, corruption and dishonest practices during 1959. Of these, 608 were filed as they were, being too vague for any action, and 1844 were referred to the departments concerned for disposal. Of the balance, 255 were found to be false, 706 were dropped for want of proof and 614 were investigated formally. Some of the officers involved in cases of corruption and misconduct were Engineers, Directors of Supplies and Disposals, Commissioned officers of the Army, a Chief Conservator of Forests, Controllers of Imports and Exports, and Income Tax Officers. Allegations of being in possession of excessive assets disproportionate to known sources of income were substantiated against a Director of Supplies, a Deputy Director of Food, a Financial Controller, a Divisional Superintendent of Railways, and a Regional National Savings Officer. The Special Police Establishment also investigated some cases of misappropriation, cheating and

⁴ Special Police Establishment, Delhi, *Annual Report for 1959*.

forgery involving civilian officers and some Commissioned officers of the Army.⁵

A particularly despicable group of white collar criminals has been active for a number of years in the patent medicine and drug field. The role they play is all the more revolting because of the advantage taken of human suffering and pain. Adulteration of drugs goes on on a large scale and the markets are glutted with drugs which are useless and quite often injurious. In 1957, a reputed firm of Chemists and Druggists was prosecuted for selling spurious drugs, but was acquitted due to legal difficulties. The investigation of the case disclosed a vast net-work of indigenous manufacturers in Bombay who had all the cartons, bottles, containers and labels of genuine and established firms to clothe their own products.

Misleading advertisements are another sphere in which the white collar criminal operates with impunity. Advertisements of inferior goods, drugs with miraculous powers of cure, talismans, employment agencies, bogus institutions, puzzles, lotteries, money circulation schemes, and pornographic literature continue to flood the country through the medium of newspapers and journals and fleece the public of hundreds of lakhs of rupees. There are only a very few discriminating newspapers who sift these advertisements and permit the publication of only those which are in public interest. As Sutherland observes : "The danger from robbery or kidnapping is clearly realised, for they involve direct sensory processes and are based on social relations which have existed for many centuries. Theft by fraudulent advertisement and prospectuses is a recent development, and affects persons who may be thousands of miles away from the thief."⁶

It is difficult to associate crime with so noble a profession as the doctor's, but indications are not wanting to show that even this profession is affected to some extent. The majority of medical practitioners are no doubt honest and have a high sense of ethics, but there are some black sheep among them as in other walks of life. The case of a Poona doctor who committed the murder of a helpless widow for her property is

⁵ Special Police Establishment, *Annual Report for 1959*.

⁶ E. H. Sutherland, *Principles of Criminology*.

a case in point. There are no statistics to show the extent to which doctors have helped illegal abortions, but we hear occasionally of such cases showing that such practices are not uncommon, although they may not be on the gigantic scale as in the United States, for most of the affected women in this country approach the local quack and the unscrupulous midwife for fear of social disgrace. There are cases in which doctors have been influenced to give false certificates and even to manipulate admission and discharge registers to provide alibis. Careless and inefficient post-mortem examinations have also been responsible for some gross miscarriages of justice.

As in the medical profession, there are black sheep in the legal profession also, although the vast majority of lawyers have an admirable code of professional conduct. That at times the self-imposed code fails, particularly in the rural areas and small towns, is undeniable. Overcrowding in the profession is mainly responsible for the lowering of standards of morality in a profession which is essentially a noble one. Dr. Rajendra Prasad, himself an eminent lawyer, chagrined by some of the unsavoury practices in law courts, said years ago: "There is no denying the fact that by suggestion, insinuation, innuendo, the lawyer indicates what he wants to enable him to plead the case successfully, and the client, with the help of the tout, procures what the lawyer wants. In arguing a case the only limit to which even a respectable lawyer puts himself, which under professional etiquette he is required to put, is abstention from false or untrue statement of facts."⁷ The ability of the counsel for defence in criminal cases is often judged by the accused by the former's ability to turn witnesses or suggest ingenious means of escape. Unscrupulous lawyers associate actively with some factions and help in the drafting of first information reports even in murder cases. The struggle between two factions in a village some times transforms itself into a battle of wits between two astute lawyers to whom no trick is debasing so long as it serves the needs of their clients.

One of the most revolting forms of white collar crime is profiteering. Whether it is one of making undue profits on imported or high quality goods whose scarcity increases

⁷ Dr. Rajendra Prasad, from an article published in *Young India*.

their demand or whether it is merely one of selling inferior goods to the general public or governmental agencies, profiteering is a crime against society, which is all the more repugnant because we have no precise information and accurate data. Profiteering reached peak heights during the war, and subsequent years of control of food-stuffs and essential commodities. Artificial shortages were created and immense fortunes were made by unscrupulous black-marketeers. The number of successful prosecutions or detentions under the Preventive Detention Act formed only an insignificant proportion of those who indulged in such anti-social activities.

Similar tendencies of exploitation and greed are noticeable in all walks of life. Due to acute scarcity of housing in big cities, the system of '*pagree*' which means payment of large sums as bribes to landlords to circumvent Rent Control Orders has taken a very firm root and defies solution. Even in the field of entertainment, black-marketing in the sale of tickets and other unethical practices are commonly heard of. Corruption has extended its coils to such fields as school text-books, transport permits, co-operative societies, housing colonies, land reclamation, ticketless travel on the railways, and enforcement of prohibition. Thus, "criminality and quasi-criminality are found in most occupations."

This takes us to the methods of tax evasion which even the most respectable consider as inevitable. It is indeed an index of our deteriorating moral standards that most of us deem it clever to evade taxes or hoodwink the government in some manner. The magnitude of the problem can be gauged by the fact that quite a number of businessmen are reputed to maintain two or even three sets of registers—one for personal use, and the other for the benefit of the Income Tax or Commercial Tax authorities. The very people who condemn these practices as anti-social do not hesitate to hide their own income in dubious ways.

It is true there have always been criminals in society. But at present, we are confronted not only with the conventional criminal—the murderer who has no respect for life, the dacoit who glories in crime and the thief who prowls in the night, but also with a new type of criminal who is clever and apparently harmless and moves in the highest circles and causes

enormous losses to his fellow-beings. White Collar criminals are neither poor nor feeble-minded nor emotionally mal-adjusted. More often than not, they are 'respectable' and manage to escape the 'stigma of crime'. The police are usually called upon to investigate the most obvious and blatant types of fraud and misappropriation, but a multitude of subtle and finer forms of fraud defy the closest scrutiny. Some of the violations with serious effects are not even considered crimes, for the criminals cleverly confine themselves to the letter of the law. It is against this revolution in crime which the modern criminologist warns society. In due course it may be difficult to distinguish between normal criminal activity and immorality in business and government circles. Even at present there are unambiguous indications of white collar crime merging in conventional crime as shown by the increasing number of cases of embezzlement and criminal breach of trust that are being reported every year.

10

Juvenile Delinquency

In recommending that prevention and treatment of Juvenile Delinquency be given high priority in the field of social defence, the authors of the Third Five Year Plan laid adequate stress on the far-reaching social implications of delinquent behaviour of children in the context of national development.¹ It is a matter of common knowledge that a large number of delinquents embark on careers of crime in childhood and adolescence. Psychologically they belong to the 'momentary or the acute type'², but as these first offenders grow to manhood, a stabilization of abnormal and psychopathic influences occurs in their character. The origin of juvenile crime lies not merely in the personality of the child, but also from problems of "how to conceive, to react and to adapt to each new situation in life."³ The extent of juvenile delinquency is therefore an indication of the degree of social disorganization.

In 1956, the Bureau of Delinquency Statistics and Research of the Children's Aid Society, Bombay, published a report on juvenile delinquency in India. According to the report, during the six-year period from 1948 to 1954, as many as 86491 juveniles were arrested commencing with an annual figure of 12268 and rising gradually to 16657 in 1953-54.⁴ This pertains to the age group of seven to sixteen. The corresponding number of arrests for the year 1958 is 14920.⁵ Although this marks a slight fall in the incidence of juvenile crime, the general trend has been one of gradual increase, the general

¹ The Planning Commission, *Draft out line of Third Five Year Plan*.

² David Abrahamsen, *Crime and the Human Mind*.

³ Ibid.

⁴ The Bureau of Delinquency Statistics and Research, *Juvenile Delinquency in India*.

⁵ Government of India, *Crime in India, 1958*.

trend has been one of gradual increase. The Bureau of Delinquency Statistics therefore came to the conclusion that the increasing number of arrests indicates "greater vigilance and activity on the part of the police and better enforcement of the juvenile laws wherever they might exist, and that the conditions impelling the enforcement of juvenile laws are becoming increasingly serious."⁶

These conclusions are, however, governed by a number of limiting factors. In social legislation of this kind much emphasis cannot be laid on statistics since they depend to a great extent on the drive and the interest evinced by the police, corresponding to the degree of public awareness and pressure from welfare agencies. The degree of awareness may be due to changed concepts of juvenile behaviour and an inadequate understanding of children's problems. As Herbert Bloch points out, it is a moot point whether the rise in statistical data correctly represents the increasing trends of delinquency, or whether they merely register "an emotional protest on the part of the public in the form of a moral judgment on the young."⁷

The ambiguity of criminal statistics—whose defects have been discussed at length earlier—should warn us beforehand against reaching hasty conclusions. No doubt, large sections of the public look to statistical trends to reassure themselves on the point of internal security. Bloch and Sellin have demonstrated beyond doubt the misleading nature of juvenile delinquency statistics in the United States and have furnished convincing examples to prove that, although statistically crime showed a distinct downward trend due to the activities of a youth agency, there was in reality no appreciable decrease in crime. These examples have close parallels in our country too. Moreover, legislation pertaining to children's welfare in India has been haphazard and the existing legislation suffers from lack of uniformity. In Madhya Pradesh and Mysore, the Acts passed in 1928 and 1943 are still in the process of implementation. In Hyderabad, the Children's Protection Act is almost inoperative although it has in it the potential for

⁶ The Bureau of Delinquency Statistics and Research, *Juvenile Delinquency in India*.

⁷ H.A. Bloch, *Juvenile Delinquency, Myth or Threat?*

much good by way of having an inspectorate for checking and registering children in need of economic assistance and medical care. In one of the important states, the Children's Act of 1952 has not yet been enforced due to 'financial considerations'.⁸ In the circumstances, it is difficult to come to a definite conclusion on the basis of statistics alone that the problem of Juvenile delinquency in India has assumed alarming proportions although there is a gradual increase in the number of juveniles taken charge of annually by the police and the welfare organizations.

All the same, no complacent view can be taken of the problem which has not come to prominent notice on account of certain dominant indigenous factors. The foremost among them is that juvenile delinquency in India is still an urban problem, centred in the metropolitan areas where conditions are not dissimilar to those in the big cities of the west. With rapid industrialization, growth of new cities and the resultant uprooting of populations, it is not difficult to visualize the shape of things to come. The prominence of juvenile delinquency in urban areas in comparison to rural areas may be ascribed to lack of reporting facilities and the general tendency on the part of villagers to condone anti-social behaviour on the part of children on grounds of tender age.

The Bureau of Delinquency Statistics noticed that juvenile delinquency in India is mainly concentrated in capital cities of states, headquarter towns of districts, important commercial centres and towns which have major railway stations. Among the unhealthy and uncongenial conditions conducive to delinquency are begging, brothels, cinemas, illicit distillation of liquor and hotels serving dubious purposes, while unsatisfactory home environment, congestion, maltreatment at schools and lack of recreation were given as some of the subsidiary conditions. The Bureau also ascertained the views of welfare officials and public bodies regarding the impediments in delinquency control as being due to inadequate concepts of child welfare, disorganization in the long standing institutions of family, religion, and rural economy, adult inertia about

⁸ H. A. Bloch, *Juvenile Delinquency—Myth or Threat?*

⁹ The Planning Commission, *Social Legislation—Its role in Social Welfare*.

youth and their problems, lack of interest on the part of civic bodies, and finally, the dwindling respect for authority resulting in general indiscipline.

Taking all these into consideration the Bureau evolved an ambitious plan with a suggested outlay of 3.7 crores of rupees for the second five year plan period (1956-61) envisaging the establishment of Juvenile Service Bureaux in urban areas and Child Welfare Boards in rural areas, manned by voluntary workers to carry out a programme of "strengthening family life within the respective cultural framework and promoting community development in all aspects concerning juvenile welfare."¹⁰ The object of juvenile service bureaux was stated to be to bring about "the realignment of gang loyalties"¹¹ and help the problem children, partially destitute children, mentally deficient and physically handicapped children who cannot adjust themselves to ordinary school care. Each centre has to be located in a predominantly delinquent area to focus public attention on the welfare needs of the socially and physically handicapped children, to provide consultative and diagnostic services and to keep in close touch with other welfare agencies and civic bodies. On the treatment side, the plan suggested the establishment of classifying centres to assess the needs of individual delinquents, reformatory schools on the lines of *ashrams*, rehabilitation centres for juveniles released from correctional institutions, mobile service units comprising of specialized personnel whose main function is to give "guidance to the institutional personnel in the actual operation of training and other programmes for the children."¹² The plan had also extensive schemes for the establishment of probation and detention homes and for the extension of the scope and character of existing correctional institutions.

Since the main features of the Bureau's recommendations are the establishment of juvenile service bureaux and child welfare boards, it is necessary to examine their scope in greater detail. Each centre, according to the report, is expected to develop three operational levels viz. guidance

¹⁰ The Bureau of Delinquency Statistics and Research, *A Report on Juvenile Delinquency*.

¹¹ *Ibid.*

¹² *Ibid.*

and counselling services, therapeutic services and educational work. The centres are thus expected to "unify disorganized sections of the neighbourhood, its needs and interests, and become focal points in social action provided it is broadbased in the willing co-operation of the community being served through them."¹³ It is also hoped that these centres could in course of time extend their scope to include the formation of children's groups, health and education of their parents, and organization of social programmes for the benefit and enlightenment of the children in the locality. As regards the rural areas, the contemplated system of child welfare boards was expected to cover the entire country in the course of the plan period, with the ultimate goal of a child welfare board for each *taluka*. The object of the boards is more or less similar to the juvenile service bureau envisaged for the urban areas—"to strengthen the family life." The objectives of the above scheme, are unexceptionable but the problem is how best the boards can achieve them. The suggestion that it should be through the medium of "education of public attitudes, intelligent censorship of literature, posters, films, and other media of mass education and by persuading civic and voluntary bodies to give free medical aid to necessitous juveniles and their families" appears too vague and complex for practical application.

Although in the words of Smt. Durgabai Deshmukh, Chairman of the Central Social Welfare Board, the Bureau's report is a comprehensive survey of juvenile delinquency in India¹⁴, it brings out at best the magnitude of the problem, for it does not take into consideration the innumerable difficulties that surround the welfare official and the policeman in their delicate tasks. It is interesting to observe that although the Social Welfare Board considered the outlay "quite modest particularly in the context of the total outlay on our second Five Year Plan," they found it not possible to "adopt it totally except for a few in a slightly different form."¹⁵ By the end of the second plan period it was expected that under the social defence

¹³ *Ibid.*

¹⁴ Smt. Durgabai Deshmukh, Foreword to *A report on Juvenile Delinquency in India*,

¹⁵ *Ibid.*

programme, 35 remand homes, 18 certified schools, 5 Borstal schools, 13 probation hostels, 25 beggar homes and 30 protective homes would be established.¹⁶ It is worthwhile to know to what extent these hopes have been fulfilled, and what is more, in what manner the character and the scope of these institutions has been improved.

It is difficult to escape the impression that in dealing with this problem on the ambitious lines of the west, there is a tendency to place the cart—to use an oft repeated cliché—before the horse. When the promoters of the schemes talk of strengthening the rural school and improving the quality of the teacher, the assessment is unrealistic, for are there not millions of children all over the country who are being brought up without even the rudiments of education? When there is no compulsory primary education, it is futile to look for defects in education as causative of delinquency, and speak of the negation of our cultural heritage in leaving the education of our growing children to “men and women who are ill-equipped, ill-paid, and are incapable of exerting any beneficial or lasting influence on the impressionable growing mind”.¹⁷ The same sense of unreality pervades the references to rural health. The authors of the report recommend that “the physical care of the growing child should include giving simple lessons to the child and his parents in sanitation, environmental hygiene and the treatment of their physical surroundings”.¹⁸ The problem here once again is one of education which affects the nation as a whole. It is estimated that the rural population exceeds three hundred millions, the vast majority of whom have no elementary facilities of sanitation, hygiene and medical attention. Equally unconvincing are other causes put forward by the experts viz. broken homes, destitution, bad environment, congestion in the cities, etc. These are problems of such magnitude and so inextricably linked with the material well-being of the people that they have to be tackled in a larger and more comprehensive perspective. It is not denied that these are mainly contributive to crime, but what is surprising

¹⁶ Govt of India, *Draft Third Five Year Plan*.

¹⁷ The Children Aid Society, *A Report on Juvenile Delinquency*

¹⁸ *Ibid.*

is that compared to western standards, juvenile delinquency has been so little—almost negligible—except perhaps in certain centres where the impact of western civilization with its attendant developments in economic, cultural and social disorganization has been the maximum. In a country where illiteracy is very high and where civic consciousness is invariably of a superficial nature, the emphasis on the general aspects of community life have little or no relation to reality in the context of delinquency.

So much has been written on juvenile delinquency from the social, cultural and psychological angles that a whole literature has grown around it. It is of paramount importance that the student of delinquency does not lose himself in the confusing jargon a new science. Equally important is the need for keeping the field clear from unqualified persons and agencies who are not equipped to tackle the delicate tasks of child welfare. Theoretically, delinquency is “the result of a vast number of social stimuli which most frequently originate in the home in which we have an interplay of emotions, personalities and social experience which closely touch the child”,¹⁹ but it is necessary to apply this knowledge with sympathy and imagination, and a capacity to understand those who remain in the outer fringes of society through overwhelming causes of poverty, ignorance, illiteracy, caste and class consciousness.

A text book approach to the problem of juvenile delinquency can reveal many factors in its causation. But what is noteworthy is that such apparently different factors as economic instability, disorganized homes, lack of parental care, emotional disturbances arising from parental clashes are merely variant forms of the general condition of destitution. The tea-shop *chokras*, the shoe-shine boys, and the street corner kids who sleep on pavements of big cities, are destitutes in a physical as well as a psychological sense. If they have homes, the conditions there are so intolerable that they prefer the pavement to the sordid chawl. In general, they are destitutes—children driven from homes through economic distress, or those who have run from homes following a break-down or

¹⁹ T. E. Sullengar, *Social Determinants in Juvenile Delinquency*.

desertion, and the illegitimate progeny thrown upon the tender mercies of society. Uprooted from their homes and villages, they are drawn in continuous streams to the big cities in search of freedom and work. Vagrancy and begging follow ; and in their wake, association which other children similarly placed. Thus one sees clearly the picture of Indian juvenile delinquency as an aggravated form of destitution. There are no doubt cases of abnormal behaviour due to psychological factors in spite of a tolerably good education, economic situation and upbringing. But they form only a small fraction of the number handled by the police. Therefore, our plans for fighting juvenile delinquency must be formulated within the bigger framework of tackling destitution from whatever causes it may originate.

The problem of child welfare is closely linked with the leisure time of the child and his recreation. An appalling feature of urban and rural life in our country is lack of recreational facilities for children. The sight of hundreds of children playing in the streets in spite of traffic and other hazards is so common that we have come to take it as an essential feature of metropolitan life. Recently, play grounds are springing up here and there under the auspices of some charitable institution or quasi-governmental agency, but a predominant feature of these improvised playgrounds is their monotony. A majority of the villages do not have even this advantage. The need for wholesome recreation and leisure-time activity cannot be over-emphasized as they are the inherent rights of every child, but we must remember that when we speak of recreation, we mean supervised recreation which can be presented to the youth "positively with emphasis on his choice in his free time and on his dignity as an individual."²⁰ We must also guard against any tendency to expect miracles, for at best, recreation can minimize the risks of children growing up in an atmosphere of idleness and lack of competitive spirit of sport.

Let us now examine the adequacy of the agencies entrusted with the task of controlling juvenile delinquency. The Children's Acts in all the states provide for taking charge of vagrant, destitute and delinquent children, but in practice neither

²⁰ Barnes and Teeters, *New Horizons in Criminology*.

the welfare organizations nor the law-enforcement agencies give them the attention they deserve. The main handicap appears to be lack of accommodation facilities. The courts also, burdened with normal work and harried by considerations of availability of accommodation in the limited number of remand homes, discharge a large number of children after a nominal period of detention and superficial investigation. The probation service, which is still in infancy in many states, cannot normally cope with the heavy case loads; and consequently there is little of 'follow-up' work. Closely associated with the juvenile court and the probation officer are the police who are generally the first to come into touch with the delinquent child. "The way in which the delinquent is first handled in his first clash with the Law will often decide whether a criminal career will result or not."²¹ This principle is universally accepted and the police in all big cities today have separate juvenile bureaux to deal with the problem. The experiment is however viewed with cynical amusement due to old prejudices, and there is a tendency to belittle the role of the police in child welfare. All the same, we have to persevere, for more than any one else, the police are intimately connected with child welfare as it affects the crime situation. A number of projects conducted by the police on their own initiative demonstrate the extent to which success can be achieved by law-enforcement agencies. What is of primary importance is that the police, whose role has all along been one of expediency in the field of social defence, should rise to new heights and prepare themselves to accept the challenge of a new generation of ideas and imbibe the fundamental concepts of their sociological functions.

Among the institutions dealing with the problem of juvenile delinquency and which have stood the test of time in spite of virulent criticism, are the detention home and the reformatory school. The former is intended for pre-committal disposal of the child, and the latter to provide institutional treatment after the juvenile court assesses the needs of the child. Although one cannot hope to provide "fastidious institutions",²² there is no

²¹ Barnes and Teeters, *New Horizons in Criminology*.

²² Children's Aid Society, *Report on Juvenile Delinquency*.

doubt that many of the existing institutions fall short of modern standards. The detention homes suffer from lack of space, funds, trained personnel and observation facilities. As regards the reformatory schools, their regimentation and deadly monotony are too well-known to need comment. Years ago, Albert Deutsch, noted authority on penal institutions in the United States, said of the schools in that country : "The facts as I found them shock me profoundly. They add up a black record of human tragedy, social and economic waste and a corroding monotony even deadlier for children's personality than physical violence."²³ This is equally true of most of our reformatory schools today. And yet, the defects of an institution arising from various causes should not deter the state from the natural development of the juvenile court system which alone is the answer so far as this country is concerned. The jurisdiction of the existing juvenile courts can be extended to cover certain well-defined areas with a remand home run on modern lines. A number of juvenile courts should have a common reformatory school embodying the rehabilitative and reformative principles of penal action. We should also concentrate on the improvement of existing institutions with a view to reduce the regimentation inherent in them and convert them into useful centres of rehabilitation of the troubled child. The juvenile court system, with the adjuncts of an efficient probation service and proper reformatory schools still remains, as Barnes and Teeters say, "one of the very few areas that has been permeated by a socialized point of view regarding the delinquent . . . It has been, and still is, a pattern for mitigating criminal processes. It is axiomatic in penology that what proves successful in dealing with minors, may be extended in principle to the treatment of the adult criminal. In theory the juvenile court is one of guardianship where the issue is neither criminal nor quasi-criminal, but the welfare of the child"²⁴.

In India the main difficulty in carrying out efficiently any plan for prevention and treatment of juvenile delinquency is the paucity of workers with the necessary imagination, sympathy, deep insight into behaviourism, and above all,

²³ Albert Deutsch, *Our Rejected Children*.

²⁴ Barnes and Teeters, *New Horizons in Criminology*.

sincerity of purpose. As Clifford Manshardt says in his book 'The Delinquent Child', no where else than in the field of Juvenile Court procedure do we need men and women with solid "educational foundation which would include a knowledge of economics, sociology, social psychology, child psychology and social case work."²⁵ Where are the Juvenile Court judges, probation officers, and other officials and workers who are deeply imbued with the spirit of juvenile court philosophy, and possessing the necessary patience and sympathy to deal wisely with the children brought before them or entrusted to them for readjustment in society? Even if we are prepared to establish diagnostic centres and child guidance clinics at prohibitive cost, where are the personnel to man them and help in the administration of the children's laws? As criminal science is a border line science with far-reaching implications particularly in the field of juvenile delinquency, the difficulties in the way of having sufficient number of trained and equipped personnel is real in all countries, and in a very enhanced degree, in India. All the authorities dealing with the choice of workers place considerable emphasis naturally on choosing the right personality for the work. Kate Friedlander says that it is difficult to define a suitable personality in psychological terms, but it is easy to say what he should not be like.²⁶ All these however, cannot be created overnight by the touch of a magic wand. The idea of a vast net-work of juvenile service bureaux and child welfare boards manned by voluntary workers is certainly enchanting, but it is of paramount importance that the field should be guarded against exploitation of the pseudo-reformer and the lip-sympathetic social welfare worker. Even if the creation of child welfare organizations is slow, it is better to go about it in a gradual and planned process of development than through over-ambitious and haphazard efforts.

According to Kate Friedlander, "true education of the child consists in training. We must train children as we do animals from the earliest possible moment in order to make them fit for society. The question naturally arises who is to

²⁵ Clifford Manshardt, *The Delinquent Child*.

²⁶ Kate Friedlander, *Psycho-analytical Approach to Juvenile Delinquency*.

undertake this training when for any reason the parents cannot or will not impart it. Modern criminologists—particularly of the psychiatric school—are of the opinion that the failure of the reformatory school is due to the large number of cases handled simultaneously and the consequent absence of selective treatment. Recent studies of the Gluecks have shown that even the probation system has failed in modifying the behaviour of 50-80 per cent of the juveniles. At one time it was thought that child guidance clinics would work wonders but their failure was ascribed to the fact that the clinics emphasize psychiatric treatment without a corresponding attempt to change the “social situation” of the juvenile. The partial success that has attended the individual mechanics of child welfare merely demonstrate the inadequate and unsatisfactory processes which are brought into play at the police station, the juvenile court, the reformatory school and the welfare centre. No wonder M. S. Sabnis, a pioneer in the field of child welfare in India, regretted : “In the name of protection, we go on tossing them (juvenile delinquents) from the police to the remand home, from the remand home to the probation officer, from the probation officer to the court and the child guidance clinic, from the clinic to the certified school, to the probation hostel or to the after-care home, but never to their real home—the home which we should have helped them and their parents reconstruct for the good of all. To some of us who have worked for the (Children’s) Act, this procession of tossing has become a nightmare . . . ”²⁷

There is no gainsaying that the immediate need of the hour is a comprehensive legislation applicable uniformly in all the States in the country. Although in the immediate present, the state is not prepared financially and administratively to enforce the Children’s laws fully and the community itself is not psychologically prepared, the Children’s Acts in various states have to be brought on a uniform basis to remove needless differences. While it is too much to expect that protection of children can be achieved merely through the instrument of law, and as Sabnis says there is a “hiatus between legislation

²⁷ M. S. Sabnis, *Legislation for Protection of Children*.

and the results",²⁸ the administration of children's laws alone, however imperfectly, can rouse the public awareness to the magnitude and the complexity of this human problem which has defied generations.

The problem of juvenile delinquency in India is essentially one of gathering the innumerable streams of unfortunate and destitute children and rehabilitating them before they travel long on the road to crime. It is therefore necessary in the first instance to increase the capacity of the state to take charge of every destitute. It is not uncommon to find hordes of children being mopped up at railway stations, tourist centres, and places of entertainment. One should pause to ask what happens to them. Actually these children flit through police stations and remand homes and swell the statistics of arrests made under the Children's Acts. This is neither wise nor humane. However, the blame cannot be laid on the shoulders of the authorities alone. No appreciable headway can be made in the field of child-welfare unless, as a prerequisite, we have adequate children's homes run by competent persons. In spite of their inherent defects, if new institutions are established on healthy lines, and the existing ones are reorientated to eliminate mismanagement and unimaginative trusteeship, we would have made adequate beginnings in tackling this difficult social problem with courage and sense of realism.

²⁸ *Ibid.*

11

Traffic In Unadjusted Women

THE first quarter of this century was noteworthy for an enlightened approach to 'the oldest profession in the world'. Prostitution and its connected evils are not peculiar to India, but by the roots they have in social custom and tradition they present a complex sociological problem.

Prostitution existed in India from times immemorial. The Rigveda and the Buddhist Jatakas are replete with references to accomplished courtesans who occupied distinguished positions in society, not entirely dissimilar to the glamorous mistresses in the courts of Europe in the sixteenth and seventeenth centuries. By the time the Mauryas came to power, the position of the courtesan had improved to such an extent that she came to be looked upon as an important member of the royal household. Kautilya's *Arthashastra* gives a vivid picture of the courtesan's duties which included spying in times of war and peace.

The dominant position which the prostitutes enjoyed in those days can be gauged from the voluminous treatises on erotics, compiled in the third and fourth centuries. Literary works like the '*Mrichakatika*' and the '*Silappadikaram*' reflect the contemporary social conditions in which the prostitute was not an object of contempt, but a respectable figure.

The development of the caste system, which meant separation of people into water-tight compartments on the basis of their avocations, had its effect on the class of people who practised music and dancing as a part of their repertoire for living. In course of time, they formed into a separate caste and lived as distinct groups occupying separate quarters in big cities. The system continues even today in some form or other. The accounts of Domingo Paes and other chroniclers

who visited Vijayanagar in the sixteenth century show that prostitution provided an appreciable source of revenue to the state.

The system of attaching prostitutes to places of worship is of ancient origin, but it seems to have come into regular practice during the ninth and tenth centuries when the construction and the ritual in temples attained the present form. The duties of the *Devadasis* were primarily to dance before the image in the temple and when it is taken out in procession. The *Devadasis* formed into a separate caste with their own laws of inheritance and dedication to the temple. Thus, it is not without some element of truth that S. E. Edwardes could say flamboyantly : "Church and State indeed seem to have combined to popularize, if not to honour, the prostitute's profession ; and with the example of their governments and the teachings of the priesthood before them, it is hardly surprising that the general mass of the people of India should have learnt to regard the trade of the courtesan and the prostitute with considerable tolerance and in some cases as worthy of respect."¹

What are the causes of modern prostitution ? There is no doubt that economic necessity is the most important factor. Among the other causes are environment, inclination, seduction, enticement, bad companionship, and a desire for an easy life. These in turn may arise from sociological factors like early marriages, orthodoxy, immaturity, and personal factors like inability to face the realities of married life. In India the problem is further complicated by the continuance of groups who have been addicted to the profession for centuries. Environment, coupled with social ostracism which operates against marrying into these castes, plays a vital role in influencing the members to resist all attempts at reform.

By 1925, a wave of puritanical and reformatory zeal which swept the country was mainly responsible for a change of attitude towards prostitution in general and the age-old system of dedication of women as *Devadasis* in particular. A series of laws in almost all the states put an end to the latter practice. Similar efforts in the matter of suppression of

¹ S.E. Edwardes, *Crime in India*.

immoral traffic, however, were not equally successful in view of the magnitude and complexity of the problem. True, none of the laws dealing with the suppression of immoral traffic and prevention of prostitution were intended to be complete in all respects. They contented themselves mainly with those aspects of prostitution affecting public decency. These were: soliciting, running brothels, and living on the earnings of prostitutes. The various State enactments suffered from lack of uniformity and seemed to have been mainly inspired by sentimental reasons. The Central legislation on the suppression of immoral traffic aims at achieving uniformity and goes a little further in dealing with the practices which surround the houses of ill-fame. The prominent features of legislation are the prohibition of prostitution within a prescribed range of public places, abolition of brothels, and the establishment of separate correctional institutions for women convicted under the Act and in respect of such women who volunteer themselves for reclamation in society.

Among the innumerable causes of this social evil, economic and psychological factors are the most powerful. With the abolition of the nautch system, and the gradual disappearance of concubines due to social pressure, many prostitutes who belonged to special castes and who had previously lived within the confines of the caste system, are now being forced into commercial prostitution. The growth of industrialization meant development of big cities, necessitating migrations of large sections of male labour, followed later by their women, torn from their homes and family ties. All large cities have special localities where women of easy virtue cater to the needs of floating populations.

Some prostitutes who are not of the 'kept' variety come from various social levels where there is no lack of material comfort and security, but for whom life is drab and monotonous without a fling into the amoral world of men. The glitter of good clothes and the fascination of the big city hold them in a spell. A typical example of this class are those girls of impressionable age who are attracted by the lure of the cinema and who run away from their homes, in the fond hope of making a career in the dazzling movie industry. The future of stardom beckons to them irresistibly; and there is always

near at hand the unscrupulous enticer. The road is treacherous and disillusionment comes early ; and it is not long before the hapless girl, having spent her fortune, finds that her quest is a hopeless one, and she has lost her virtue without gaining a career. The fear of disgrace and the sense of shame in facing her parents deters her from returning home, for in the road she has taken, there can generally be no retracing of the path. In all big cities where the film industry is flourishing there have grown small communities of run-away girls who are forced increasingly to turn to the procurer as their hopes of success gradually recede.

The British psychiatrist Dr. Edward Glover propounded that a large number of women turn into prostitutes because they are psychologically and sexually insecure and possess "an unconscious urge to obtain revenge for neglect".² These are the women who deliberately choose the profession leaving a home and a family.

These, then, are some of the fundamental reasons for the continuance, through the ages, of prostitution. They are not peculiar to India ; each country has its own form of this ancient social evil which no amount of legislation and executive vigilance has curbed. While some of the religious and historical reasons are fast disappearing or have already disappeared, other factors, economic and psychological, arising from social conflicts inherent in modern civilization, are taking their place. Although the Social Welfare Board in India is of the opinion that the "question of prostitution cannot be considered except in the context of national progress, full employment, economic advancement, social justice and the general raising of the standards of living of our people," it is interesting to know that the evil is not less serious elsewhere. Like conventional crime, it has permeated deeply into society ; and the over-zealous reformer who aspires to rid society of this evil is certain to be disillusioned. Prostitution adopts new forms to escape the unwelcome attentions of the policeman and the social worker and will continue to be a part of our social system for many years to come. One may or may not agree with either of the divergent views that the demand for prostitution is the direct

² Dr. E. Glover, *The Psycho-Pathology of Prostitution*.

outcome of our existing moral code or that it is primarily the result of our economic system. The multiplicity of causative factors, as in the case of crime, makes prostitution inevitable.

Periodical outbursts of activity on the part of the police assume the form of cleaning up operations in big cities, but after an interval the pimps and the brokers resume the sordid trade. Although there is no public display of vulgarity, which is all that an average citizen desires, under-ground trade through ingenious methods of deception goes on uninterrupted. There is no dearth of professional contact men. One has only to walk in some of the streets of Bombay and Calcutta after dusk to realize the enormity of the trade and the astounding number of myrmidons on the prowl. Although procuring and soliciting are offences, they are practised in devious ways and on such a large scale that the police cannot usually cope with them.

The Suppression of Immoral Traffic Act has been in force in all the states for the past few years. In spite of express provisions forbidding prostitution within certain prescribed limits of public places, there have been no indications of diminution in the social evil. On the other hand it is difficult to escape the impression that increasing number of women are joining the sordid ranks. The unseemly squabbles and transactions which go on nightly in the red-light districts of Bombay, Calcutta and other big cities are reminiscent of the revolting conditions depicted with brutal candour by Kupriyan in his famous 'YAMA'. Indeed, such conditions are true of almost every town in India. Closely associated with these unfortunate women are hordes of people who are directly or indirectly dependent on the sordid profession. They are the procurers, the pimps, the brothel-keepers and even petty shop owners who lend clothes and jewels to the practitioners of love.

And what about men ? Why do they patronize prostitutes ? In their famous report on the sexual behaviour of the human male, Alfred Kinsey and others enumerate lack of sexual outlets and the fact that prostitutes are comparatively cheaper than marriage as the main contributory factor.³ However, it is debatable to what extent the latter is a cause of male patronage

³ Alfred Kinsey and others, *The Sexual Behaviour of the Human Male*.

in this country. More than anything else, it is the desire for gratification of the sexual urge that leads to prostitution and its encouragement. Barely a decade ago, there was nothing repugnant of a man kept a woman for extra-marital relationship. Hindu society premitted a greater measure of liberty to the man and simultaneously tried to relegate the woman to a position of comparative inferiority throughout her life. This frame of mind continues to provide a background for prostitution in India.

There are two schools of thought regarding the manner in which the age-old problem of prostitution is to be tackled. The moralist school argues that the system is a blot on modern society and has to be eradicated at all costs. They desire that it should be abolished by stringent measures and deterrent punishments, and that prostitutes should be treated as regular criminals and sent to jails. We have seen that all efforts on these lines have failed, and are doomed to fail. Instead of controlling the vice, they have merely spread it to places where it has been non-existent before, and where it is difficult to bring it under effective supervision and inspection. In the process, the trade passes from the actual practitioners into the hands of unscrupulous organizers and racketeers.

The more practical school of thought argues that the problem of prostitution cannot be solved without going deeper into the causes that create the conditions favourable to it; and since the causes are deeply entrenched in the social structure, it is better to recognize the ugly truth and act accordingly with a sense of realism. They suggest segregated districts, public licensing and medical inspection. One might be horrified by these suggestions, and might even argue that this will not solve the problem in entirety, for surreptitious practices will continue still and the unsavoury prospect of governmental patronage and association with so sordid an institution is too bitter a pill to swallow.

The solution, therefore, must lie in an attempt to reconcile these widely divergent views. The authors of the connected legislation in India have wisely restrained themselves from over-ambitious measures and contented themselves with only making certain aspects of prostitution viz. soliciting, procuring and certain forms of exploitation of women, penal offences. The

most noteworthy feature of the legislation, however, is the creation of rescue and remand homes for the fallen women. Progressive though these provisions are, it is useful to examine the enormous practical difficulties under which these homes are running. In spite of a sincere desire on the part of the state to see that these institutions are run on socially purposive lines, there is no gainsaying that the expected results have not been forth-coming. The main difficulty appears to be one of agency. Moreover, it is only an insignificant number of convicted women who are sent to rescue homes due to practical difficulties in regard to age. In actual practice, the police are content to get convictions—usually fine, or simple imprisonment for a week or more. In respect of those few women who find their way to the homes ultimately, they are so hardened and callous, that with the limited means available to the institution, any idea of reforming them is given up even before an attempt is made.

In respect of voluntary homes, the difficulties are equally numerous. The rescue of fallen women from their squalid surroundings is indeed the main task of social welfare workers, but it has to be conceded that, due to social inhibitions, they have not been able to turn out substantial work, although, here and there, some remarkable and praiseworthy efforts have been made. More often, this duty is indirectly cast on the police who cannot be considered a proper agency for the purpose. Many voluntary admissions are made under some kind of pressure. If the case histories of the inmates of voluntary homes are studied carefully, it will be seen that there are very few who do not wait impatiently for the day when they would be free to revert to their trade. There is nothing in them of the pathetic woman cast adrift on society. Instead, to be brutally frank, some of the inmates use the institutions merely to improve their appearance and to prepare themselves for a higher type of clientele on release. Some voluntary homes have even come to adverse notice consequent on mismanagement and maladministration and widespread abuse.

Another important hurdle in the way of successful implementation of reformatory measures is the limited extent to which the community is psychologically prepared. Instances of parents deliberately initiating their children in the sordid

profession are quite common. In a voluntary home in a big city, a woman admitted her teen-age daughters, but before a week had passed, started to create regular scenes at the institution demanding the immediate release of the girls. When the mother did not succeed in her importunities, the daughters began to create problems in the home, quarrelling with other inmates and threatening to commit suicide. Caught between the nuisance of the mother who waited on the door-step, and the intolerable attitude of the girls inside, the management had no alternative but to let them go. A probe into the matter revealed that the depraved parents were living on the earnings of the girls. On a commotion being raised by the neighbourhood, the father of the girls was persuaded by the local police officer to send them to the rescue home. The girls were unable to adjust themselves to the rigid discipline of the home, and the parents could not be reconciled to the loss of a steady income.

The main defects in institutional treatment arise from the organizational set-up of the homes. On the paid staff are a matron or a superintendent, a few part-time teachers and office establishment. Mrs. M. M. Desai, who has done some pioneering work in the field admits frankly : "Many institutions lack sustained and efficient service of trained workers who could be of great help . . . Unfortunately, emphasis is laid on the activities at the cost of the participants. Hence the therapeutic value of the activities is nullified."⁴ The vision and the imagination of the members of the committees which manage these homes are limited by the very social upbringing and environment of the workers. Indeed, as Mrs. M.M. Desai remarks aptly : "Social work is a serious business. If it is unorganized or taken lightly, it does more harm than good to the recipients."⁵

Apart from the inherent difficulties in running the homes and the problem of filling them with really deserving cases which need attention, the difficulty in the way of genuine rehabilitation of the women who pass through the portals of the homes is an insurmountable one. It will be interesting to review objectively the working of some of the institutions

⁴ M.M. Desai, Voluntary workers and rehabilitation of women, Indian Journal of Social Work, Vol. XXI, June 1960.

⁵ *Ibid.*

to ascertain in how many cases the rehabilitation has been real or lasting, and the girls have been settled in marriage or in profession. In respect of almost all the institutions, there is no adequate machinery for after-care and follow-up work.

It is not intended to decry or belittle the enthusiasm or the praiseworthy results achieved by some workers in the field. While the claim of Theodore Mazarello that "prostitution cannot be eradicated from the face of the country by an act of Parliament, social workers only can bring about the desired change in the fallen woman" is too tall to be accepted unreservedly, the importance of their role cannot be underestimated.⁶ What has to be recognized, however, is the fact that the problem is too vast and complex to be tackled by a few well-meaning women sitting in the committee rooms of the homes.

Criminologists recommend the abolition of laws which make prostitution a crime or misdemeanour. They suggest that the programme of rehabilitation "should be sociological and medical in nature rather than purely moralistic."⁷ Efforts have to be concentrated on eliminating the incipient causes which encourage prostitution. Their suggestion of sex education in schools, imparting of knowledge of venereal diseases and physiology of child birth, expansion of guidance programmes for marginal girls, creation of cadres of police-women with requisite understanding and sympathy, can have only limited application in this country. The present legislation on the suppression of immoral traffic in India is on right lines and makes a significant departure from the stereotyped moralistic attitudes. What is worthy of immediate recognition is the fact that the detention homes must be run on purposive lines with clear objectives. The tasks of the social workers, however, do not end with the management of the homes. Indeed, they begin when the inmates pass out of the institutions. The money spent on these institutions will not be well-spent unless positive efforts are made to settle the inmates so as to enable them to lead respectable lives as wives and mothers.

⁶ Theodore G. Mazarello, *Social Service in the Third Five Year Plan*.

⁷ Barnes and Teeters, *New Horizons in Criminology*.

12

The Persistent Offender

ONE of the accepted methods of investigation of crime in India, as in other countries, is based on knowledge of the old offender and on the principle that a criminal is likely to repeat the crime as well as the manner of it. This, in essence, is the *modus operandi* system, which helps the police to narrow down their suspicions to a limited number of criminals. The system requires an extensive knowledge of ex-convicts, their movements and activities; and in the event of an outbreak of crime, it results in intensification of the control exercised over the criminal elements. From the time a prisoner returns to his village, he is listed and classified with the sole object that he is not lost sight of in the event of crime in the neighbourhood. Indeed, with the jail sentence and attendant social stigma following him everywhere, the prisoner has little chance of resettlement in the village; and it is not long before he joins the prolific ranks of anonymity. The impression that the released convicts are hounded by the police and never given a chance to go straight arises from this important, albeit unpleasant, task of the guardians of law in watching known criminals.

In the field of prevention of crime, two important sections in the Criminal Procedure Code are used extensively by the police. Section 109 of the Code authorizes police officers to take into custody any person who has no ostensible means of living and one who cannot explain his presence. Section 110 of the Code permits the binding over of any person who is habitually addicted to crime or other types of antisocial behaviour. More than any other legal provision, these two security sections in the Criminal Procedure Code have been applied to the habitual criminal so consistently that they are taken as an index to the preventive action launched by the station officer. The

unimaginative recourse to these much-abused provisions has been and will continue to be responsible for the unpopularity of the police force to some extent. The station house officer who has no record of detection to display falls back on the time-honoured second line of security action.

An impression may be gathered from the foregoing that the prisoner—whether he is a casual or a persistent offender—is allowed no respite, and all efforts of the police are integrated in a continuous endeavour to send him back to the jail from where he comes. But what is overlooked is that the ex-convict emerges from the prison in an atmosphere of suspicion and distrust, and his reformation is next to impossible, particularly when the prison sentence does not in any way prepare him for the future.

The problems of the persistent offender bristles with innumerable difficulties from whatever angle it is viewed. Recidivism is a potent factor in the incidence of crime and as such it has to be tackled by the police in a practical and enlightened manner. A large proportion of crime in this country, as in others, is due to persistent or chronic offenders. With the introduction of the system of probation and release of first offenders under the liberal provisions of section 562 of the Criminal Procedure Code, jails are becoming increasingly full of men with more than one conviction. In sending the chronic offender to the prison, society satisfies itself that it has achieved the objectives of administration of criminal justice and hopes that the prison sentence is a "preparation for complete regeneration". But this has so far remained only a pious hope; for the convict on release emerges from prison with the indelible branding of the criminal on him. As a rule, the institution of prison crushes him physically and spiritually; and he finds himself in a state of total demoralisation arising from lack of confidence, social isolation, and the well-meaning but disastrous effects of police supervision and surveillance.

While the psychological make-up of the prisoner and the inevitable consequences of supervision are to be viewed with sympathy and understanding, it would be extremely unwise to deal with the problem purely on grounds of sentiment. It is in regard to this matter that the conflict between the contesting schools of social protection and individualization of punishment

are brought out in sharp contrast. We are caught between the immediate necessity of protecting society from the ravages of confirmed criminals and the genuine desire to see them settle down in an atmosphere which is essentially inimical to them. One has necessarily to face the truth, however disagreeable, that there is little chance of persistent offenders "ceasing to seek their existence by depredations on the public, unless they are compulsorily withdrawn for a considerable time from their usual haunts."¹ When a prisoner of this class is released, he is thrown back on society and he gropes his way to his former haunts, in a more embittered and hardened frame of mind.

The problem of the persistent offender is by far the most complex of those that confront the policemen and the criminologist. It is obvious that the normal treatment meted out to the casual or the first offender cannot be applied to the persistent criminal; and if applied, would neither reform him in the long range nor deter him from crime in the immediate present. In consequence of this realisation has arisen a school of thought that recidivism can be tackled with a fair degree of success provided the degree of probability of the offender committing further crimes is assessed in a proper perspective. It is merely on this basis that effective protection against persistent forms of crime have been evolved which Max Grunhut considers as the outcome of criminological positivism and became the "main battle ground for the contesting schools of social protection and just retribution."²

In dealing with this problem it is not the heinousness of the crime nor the degree of gravity that counts, but it is the element of continual repetition which has in it the potential for menacing society. It is futile to attempt to punish for a particular offence. On the other hand what is to be curbed is the habit of crime so as to rid society from a class of offenders who are beyond all chances of positive reformation and whose unfettered liberty is of dangerous import.

In the context of crime in India, it is necessary to understand how the problem has been tackled in other countries. The beginnings of the penal policy in regard to recidivism

¹ Dr. Max Grunhut, *The Treatment of Persistent offenders*.

² *Ibid*,

were made in England through the Prevention of Crime Act of 1908 which was noteworthy for the appropriate shifting of the emphasis 'from the legal concept of the recidivist to the criminological type of the habitual criminal'.³ The essential feature of the Act was the power given to courts to pass, in addition to the usual sentence for the particular offence, a further sentence of preventive detention for a limited period on a separate charge of being a habitual criminal. With the provision of legal and administrative safeguards against abuse, the Act attempted to meet the need for some unorthodox method of dealing with the incorrigible criminal.

Similar trends of opinion were noticeable in other countries too, though, they came to adopt different lines. France began to banish habitual criminals to overseas possessions, which was virtual transportation. Norway provided for the extension of sentences on habitual criminals to fifteen years, but in practice, the law remained a dead letter. It was left to Switzerland to embark on the most enlightened legislation on the subject, which authorized courts to commit a habitual offender for preventive detention for an indefinite period, as an alternative to a fixed prison term.

While bitter controversies raged about the concept of punishment in relation to social security, the measures adopted in England turned out to be unsatisfactory as the number of convictions were deplorably small and the judges were not inclined to impose sentences beyond the punishment for the actual offence. The result was the revolutionary changes contemplated in the Criminal Justice Act of 1948 which provided two forms of preventive detention according to the age of the offender. Apart from the various safeguards against undue severity and insistence on intense recidivism to merit a conviction, the Act provided for conditional release also.

The only analogous provision to the above legal measures is section 75 of the Indian Penal Code which provides for enhanced punishment extending over a period of seven years for a person having previous convictions. In fact it is the only salutary safeguard against a habitual criminal's activities. Yet there is perhaps no other provision in law which has been

³ Dr. Max Grunhut, *The Treatment of Persistent Offenders*.

more disregarded. Here again, the presiding magistrates are chary of imposing excessively severe punishments. With the prison conditions as they were at the time of legislation, the most disquieting feature of cumulative punishment was the absence of reformatory elements which marked similar legislation in the west. The lack of uniform penal policy, the aversion of the judiciary to measures which amounted to curtailment of liberty for long periods, and the absence of reformatory measures made section 75 of the Indian Penal Code a dead letter, just as the Preventive Detention Act of 1908 in England merely remained on the statute book without practical application or social utility.

The lessons to be learnt from the experiments made in England and other countries—particularly Norway and Switzerland—are of immense value India where recidivism is due to certain indigenous causes prominent among which is the continuance of crime due to custom, tradition and caste. True, the mere mention of preventive detention in the fight against crime is likely to meet with unqualified opposition. In falling back on preventive detention in the search for a new form of sentence to achieve the segregation of offenders for long periods and applying the principle of indeterminate sentences, the jurists were well aware that the very measures which they proposed to ensure better protection of society might become instruments of "social aggression and weaken the basic principle of individual liberty."⁴ Radzinowicz considers these recommendations as "undoubtedly the most progressive and enlightened so far made" in regard to persistent offenders. He admits that the success of these measures depends upon courts and prison administrations. Above all, the far-reaching recommendations can deal with only a small fraction of persistent criminals and the emphasis has to be laid on the efforts to catch the incipient criminals in their formative stages so that the unpleasant aspects of preventive detention at more advanced stages of criminality can be avoided.

So far as the efforts to control recidivism in India are concerned, it is difficult to avoid the impression that our

⁴ L. Radzinowicz, *The Persistent Offender : The Modern Approach to Criminal Law*,

concepts of penal reform are marked by a distressing sense of fatalism and a feeling of indifference to the progressive developments of criminal science in the West. There is as yet no suitable machinery for keeping track of the discharged prisoner, let alone for resettling him in society. If one is not horrified by the prospect of application of preventive detention as a means of dealing with the incorrigible and the habitual, the revolutionary changes contemplated by the British Criminal Justice Act of 1948 provide a parallel and a fund of experience gained through years of trial and error.

It is unfortunate that in India we have no facilities to undertake follow-up studies of criminals discharged from prisons and sent back to society. Such studies can be of immense value in assessing the extent of recidivism and in answering such fundamental questions as : What happens to the discharged prisoners on release ? How many of them turn into law-abiding and useful citizens ? At what age and in what manner do they give up crime ? What is the effect of incarceration on them and to what extent do the sentences undergone have the desired effect ?

The studies made by the Gluecks in the United States indicate the directions in which a beginning can be made in India. They showed that "multiple—casual approach to the understanding, control and treatment of criminal behaviour is called for in our area ; that not age per se, but the acquisition of certain degree of maturation regardless of the age at which this is achieved among different offenders, is significantly related to changes in criminalistic behaviour once embarked upon."⁵

In the words of the Gluecks it is obvious that, whatever be the crime, "it is lack of adequate maturity that seems to underlie persistence in recidivism. . . . Maturity is a complex concept. It embraces the development of a certain stage of physical, mental, and emotional capacity and stability, and a certain degree of integration of all the constituents of the personality."⁶ It is the opinion of the authors that this gradual development of personality, if properly regulated and guided, can be of great assistance in combating recidivism.

⁵ Sheldon Glueck and Eleanor Glueck, *"After Care of Discharged Prisoners."*

⁶ *Ibid.*

It is for the above reason that the treatment of the persistent offenders is closely linked with aid to discharged prisoners. For many years, kindly individuals and associations have taken considerable interest in the well-being of the released prisoner, but their number is lamentably small. In general, the prisoner on release finds himself in a strange and hostile world. Suspicion and stigma of prison sentence haunt him wherever he goes. Except those with whom he had previously associated, others avoid him ; and social and communal ostracism is inevitable. At the very moment when he needs sympathy and understanding, they are denied to him. In the result, he turns inevitably to his former haunts where at least he had a personality and a position. Here at least is a place where he can live like a human being, trusted and respected by his fellow-men. The community which had taught him the business of crime is ever ready to welcome him. It is therefore natural that most criminals when they emerge from the stultifying experience of the prison are bitter against a society which contributes to their making, but turns away from them in the hour of crisis. Lord Derby's enlightened words uttered more than seventy years ago are eminently suited to the conditions in India today : "It is no cruelty, it is kindness to follow up, pursue, and hunt down, as it were, men who break the law, and to make them feel that it is a kind of business which does not pay ; but if on the other hand the law is as it should be, inexorable to those who do wrong, so, on the other hand, society should be merciful to those who are willing to mend. It is not by severity alone, it is not by kindness to humanity alone, but by using kindness and severity at the proper time and in a proper way that we make war effectually on crime."

When it is realized that the most effective deterrent to crime is an efficient and alert 'combat force'⁷ in the police which has true understanding savage punishment, of its duties and which does not pursue as its sole objective, the words of Lord Derby uttered long ago have meaning even in the present. Detection and certainty of apprehension are indeed the most effective curbs on criminal behaviour subject to certain limiting

⁷ Walter Reckless, *The Crime Problem*.

factors of social and economic disorganisation. The rehabilitation of the criminal should not be viewed merely in the light of social welfare, but as an essential and integral part of crime prevention. The greater the degree of persistency, the greater the interest which society has to take in the rehabilitation of the criminal, for the problem becomes increasingly difficult as the habit of crime grows on him. In regard to the first offender, the system of probation provides an adequate and suitable machinery for supervision and guidance. While it should be the object of criminal law to keep as many as possible from the jails, it is equally necessary that persistent offenders are not given up as hopeless cases beyond all chance of reformation. In India, the immensity of the problem, complicated further by the presence of about five millions of denotified tribes, is obvious.

In the above context, the organisation and the scope of Prisoners' Aid Societies have to be examined. These societies in India are generally copies of similar institutions in Great Britain. The object of these societies is to provide suitable lodging and maintenance in selected cases and exercise friendly supervision. Although the societies were in the first instance founded on private munificence, it was not long before it was realized that public funds have to be used, and this could be done only under the auspices of certified societies which have to satisfy the state in respect of their organisation and conduct of business. This is the present position in Great Britain and in this country. Aftercare work in almost all the states has no doubt attained a fair degree of efficiency, and is in some cases marked by a very sincere approach from bands of willing workers. But it would not be correct to say that harmonious co-operation between official and voluntary efforts has been achieved.

The Prisoners' Aid Societies concern themselves mainly with finding employment for the discharged prisoner, granting subsistence for short periods, providing assistance to the families of the prisoners and keeping in touch with the prisoners to ascertain to what extent they could be helped in settling down. The work of the societies, therefore, visualizes a remarkable degree of co-operation between the society, the probation officer, the prison authorities, the policeman and

the welfare organisations, which is difficult to achieve. Moreover, much of the assistance given to prisoners seems to be wasted—a sad and discouraging feature which would deter even the most stout-hearted worker in his efforts. This is mainly due to the inherent aversion of the prisoner to have any truck with an organization which reminds him constantly of the prison. In the final analysis, most of the aid societies show a deplorable record of failure. For this result, the reasons are not difficult to seek. Financial stringency is one. The quality of the workers is another. Considering that these are fundamental requisites for successful administration of the societies, it is no wonder that most of the existing societies have become mere centres for the expression of lip-sympathy to the discharged prisoner, with no record of positive and substantial achievement.

The crux of the problem is that although it is believed that a prison sentence is a period of training for “the complete regeneration”⁸ of the criminal, the modern prison cannot by any stretch of imagination be expected to discharge that onerous duty. In fact, when a convict emerges from the forbidding walls of the prison, there is no change in him except for the worse. He is more embittered, hardened and suspicious. The existing Prisoners’ Aid Societies cannot be expected to succeed in moulding the character of this turbulent and recalcitrant material so long as they deal with them in an official way. The ex-convict needs prolonged personal contacts which alone can help him to get over his inhibitions. It follows that the success of the aid society depends to a large extent on the contacts it develops well before the prisoner is released. It is also not enough if he is merely contacted; it should be a continuous process extending over months so that the society can understand his problem in a comprehensive manner with a view to devise a workable plan of readjustment and ensure that it has some chance of success.

Yet another defect is the lack of trained personnel. As a matter of fact, the extent of help which the Prisoners’ Aid Societies render to released prisoners is never beyond the minimum physical wants and immediate necessities. It

⁸ Barnes and Teeters, *New Horizons in Criminology*.

is now an accepted principle of progressive prison systems to recognize the social workers' role in the rehabilitation of the criminal. If the Prisoners' Aid Societies in India have to function effectively and play a useful role in channelizing the well-meaning efforts of pioneers like Lord Sydenham and Sir Phirozeshah Mehta, they have to be lifted from the distressing mediocrity of untrained personnel, and entrusted to workers imbued with a spirit of service and possessing the necessary capacity to bring to their tasks the technique of social theropentics.⁹ The government has to take an increasing measure of interest, as the problem is so gigantic that it can no longer be left to the fitful activities of small societies which have neither the financial resources nor the man power to tackle it. A comprehensive, realistic and enlightened legislation on the basis of the Criminal Justice Act of 1948 is of prime necessity. Once this is achieved it may not be long before positive efforts can be made for the preparation of the ex-convict to find his feet on release. The innumerable Prisoners' Aid Societies can then be replaced by a well-knit and well-trained organization to tackle the problem of rehabilitation of the discharged prisoner.

⁹ Barnes and Teeters, *New Horizons in Criminology*.

13

The Power of Suggestion'

It is now generally accepted that crime does not originate exclusively from any single source, but results from the interplay of a variety of causes which are related to the degree of social evolution of the people, their economic situation and other miscellaneous factors of sociological nature, and the individual's psychological make-up. Society has continuously tried to define and codify crimes with reference to the degree of seriousness and to regulate human conduct according to set patterns acceptable to the majority. The success and failure of these attempts constitutes the history of crime and punishment from times immemorial, and highlight the comparative importance of each of the causative factors in its relevant context. Closely linked with these major factors is also the power of suggestion which is indirect in nature and consequently has not been much discussed till lately.

Immediately, a number of questions arise. What is the individual's concept of crime? How does it originate and take firm root in his mind? What extraneous influences other than those connected with his immediate environment affect it in the course of his character development through childhood and adolescence? And how can these influences be countered in our campaign against crime?

In the course of assimilation into established society, an individual comes to assume certain perspectives of crime. The broad categories of crime are well-defined by virtue of social custom, tradition, religious precept, and growth of administrative systems based on law. The individual is taught from his infancy that crime is a social wrong and an immoral act. Children are taught nursery rhymes depicting the exploits of legendary heroes and emphasising their outstanding qualities of truthfulness, honesty and opposition to evil. In Hindu society,

a deeply ingrained sense of religion permeates the moral instruction to the children and social conduct is invariably influenced by it. Crime, therefore, becomes an irreligious act. The same is of course equally true of all religions. The deterrence of law and the fear of exposure and the resultant social stigma are subsequently inculcated as the child grows. At school, the process of assimilation continues. In India, the gnostic *satakams* of well-known poets and philosophers performed an admirable role in social and moral instruction.¹ In the past, they were the principal means of moulding the character of impressionable children through their formative years and thus helped in the development of a sober outlook and prepared them for a code of conduct in conformity with tradition and established social norms. Truly, as Lord Longford says, deterrence and true justice as between the community and the individual are dependent on a moral climate in which the sense of sin plays no mean part. Indian juvenile literature, however rudimentary from the modern point of view has contributed in a large measure to the creation of this moral climate.

Since the adoption of a moral code has been linked with religion, the relationship between crime and religion has been the subject of considerable research and discussion. The studies of Gustov Aschenbourg of Germany and W. H. Bonger of Holland showed that Catholics, in spite of religious instruction in schools, tend to be more criminal than Protestants and the Jews were the least criminal among the religious groups.¹ The studies of N. Goldberg among the Jews in Los Angeles covering the years 1933-1947 also confirm the above findings.² However, as Barnes and Teeters point out, such generalizations have to be accepted in a guarded manner, as it is almost impossible to assess the extent of criminality in large groups of individuals in the context of interplay of other important factors which are also present. For example, the low crime rate among Jews is due to the close family and community control exercised over the group. In India, a similar community with almost nil record of criminality are the Parsees where an analogous control is exercised.

¹ Barnes and Teeters, *New Horizons in Criminology*.

² *Ibid.*

Since we are concerned with the incidence of crime in relation to religious affiliation, we may turn to the interesting studies conducted by Mrs. Perin Kerawala in Bombay State. In categorising the religious affiliation of 52,890 convicts admitted into the jails of Bombay, she found that 67.5 per cent of them were Hindus, 23.8 per cent were Muslims, 7.3 per cent were Christians and 1.2 per cent were Buddhists and Jains.³ In comparison with actual ratios of populations, she came to the conclusion that the highest crime incidence was among the Christians, followed by the Muslims and the Hindus.⁴ The lowest incidence was found in the minority groups of Buddhists and Jains, "who represent the most puritanic traditions in Indian life."⁵ She also ascribes it to the relatively higher position occupied by these groups socially and economically. The conclusions drawn from the study which covered a number of years are that crime incidence is higher among the large minority groups of Christians and Muslims, and lowest among Buddhists, Jains, Parsees and Scheduled Tribes ; that larger numbers have been coming up from each group into the ranks of the convicts and finally, the majority community of the Hindus is presently a higher categoric risk than it used to be till 1939."⁶

As already stated, in India, moral instruction based on religion was the main source of developing healthy character. Other sociological factors, particularly the joint family system and the homogeneity of village communities in olden days, also helped in this task. Religion furnished the much needed part of emotional life to millions of men and women without which existence would have been totally commonplace devoid of joy or thrill. The influence of religion generally sufficed to create a strong moral fervour in the days when communications were hazardous and village communities contented themselves with the static lives they led. Perplexed by the mysteries of life and death, and the infinite manifestations of nature, the simple folk sought in religion an answer for all the problems connected with their lives. The development of the concept

³ Perin C. Kerawala, *A Study on Indian Crime*.

⁴ *Ibid.*

⁵ *Ibid.*

⁶ *Ibid.*

of punishment stems from this restless spirit of inquiry, and in course of time, conduct not approved by the community was looked upon as criminal and meriting the anger of gods and as such deserving the most brutal punishment. Thus while on the one hand the growth of religion tended to restrain criminal behaviour from a moral point of view, it also "created a ferocious criminal code."⁷

The extent of the power of suggestion from a religious angle can, therefore, be seen from the innumerable instances of crimes committed in the name of religion. The inquisitions, mass orgies of fanatic sects and communal killings of more recent times are clear examples of this type of suggestion. Other outstanding examples are the crimes committed by isolated groups under the cover of religious sanction. Even among those who rebelled against the conventional religious precepts and turned into outlaws and criminals who could kill without the least compunction, a strong religious bent is noticeable, however perverted it might appear to be. Scarcely a little more than a hundred years ago, the notorious banditry of *Thugs* who infested the country and let loose an orgy of murder and loot on a gigantic scale, were welded together by the powerful bond of pseudo-religious zeal. The hypnotic power of suggestion was also partly responsible for the incidence of such crimes as Suttee, female infanticide and human sacrifice prevalent in the country till the middle of the last century.

Fortunately the above sources of suggestive influences are no longer present, although here and there one comes across an isolated case, arising from superstitious beliefs. But the impact of modern civilization has brought in its wake new problems of an entirely different character. Consequent on the revolutionary changes that have occurred in the last few decades, the little barriers of security in the villages have broken down exposing the community to various influences on account of increase in education, better communications which facilitate greater intercourse with the world outside, new channels of entertainment, and advertisement. Inherent in these mass media of propaganda is the power of suggestion

⁷ Clarence Darrow, "*Crime ; Its Cause and Treatment*".

in relation to the attitudes favourable to crime, for in whatever light the problem is viewed, the development of criminal potential has to be traced to the influence of learned behaviour.

Among those influences which have tended to act on the impressionable are journalism, the cinema, the wireless, detective fiction, the comic strip and advertisement media. They pertain to the category of impersonal influences which, although not primarily causative, have considerable effect in moulding individual behaviour patterns.

The Press undoubtedly performs a noble task in educating the people. But it has also to cater to a vast array of readership of diverse tastes and varying degrees of enlightenment. It has in the first instance to present news in such a manner that it appeals to the reader and holds his interest. The desire for sensationalism is difficult to resist for a number of journals and periodicals interested in the promotion of sales. The growth of partisan Press and the absence of an objective approach to problems of general interest also contribute to unhealthy trends in journalism, standing examples of which are the Sunday papers in Great Britain and the United States of America, which present sex and murder in lurid detail. In India too, similar attempts are made by a host of yellow journals which thrive on sensational presentation of crime and anti-social conduct. In the more sober newspapers and journals too, crime continues to demand more and more space, although sincere attempts are made by a few journals to play down the crime news and present them in a guarded manner. Crime reportage has come to stay as an integral part of modern journalism. It must, therefore, be conceded that the point at issue is not the mere publication of crime news, but the manner of their presentation. The news of a dastardly crime or the arrest of a criminal or his conviction, soberly portrayed, should go a long way in creating the impression that crime does not pay and there is nothing romantic and adventurous about anti-social conduct, whatever may be the vicarious thrill derived from reading its full-blooded accounts. Indeed, such a sober and dignified presentation helps in the creation of healthy frames of mind among the growing generation and assists in the development of a genuine respect

for law, which unfortunately shows diminishing trends in recent years. But the same news of a crime which goes deep into its sordid details in a picturesque presentation or tends to rouse the admiration of the readers towards the criminal or his apparently adventurous spirit will have precisely the opposite effect on unstable individuals.

A very strong argument against the publication of crime news stems from the fear that such news stimulate the baser instincts in potential criminals and through detailed descriptions of the methods employed in the commission of crimes, helps them to turn out into accomplished criminals. Even the reports of arrests tend not to prove that crime does not pay but to pin-point the failures of criminals which lead them to apprehension. Occasionally, we hear of instances of "trigger action" consequent on the publication of crime news, but these are fortunately few. Due to the increasing awareness of the crime problem, there is a natural tendency to magnify these instances and attribute all crimes to the effect of suggestive literature, but the impression that publicity in newspapers is mainly responsible for the phenomenon is as misplaced as the downright denial of the evil.

In the clash of these extreme points of view a balanced perspective is not likely to emerge. On account of crystallized public opinion arrived at on inadequate study it is generally held that youth should be protected from the influence of the Press. The same views are expressed with regard to the cinema. It cannot be denied that the cinema has some adverse effect on the unstable youngster, but here again, as in the case of the Press, there is a tendency to magnify the evil due to prejudice. A few years ago an instance in which a juvenile offender informed the police that he had learnt the technique of scaling over a wall from a recent picture which was a box-office hit was given such prominence that it was splashed in all newspapers and a big story was made out and a spate of correspondence followed on the evils of the cinema. But the point generally overlooked was that the cinema had merely acted as a catalytic agent on the criminal potential of the boy. No effort was made to understand the child's social inadequacy arising from various other factors. Actually when his case history was examined, it was seen

that he was a motherless child among a family of eight, his father was a drunkard, and the woman he had kept constantly harassed the children to go out and make a living through begging or petty thieving. He began to steal a little from the house whenever he could manage and saw the cinemas frequently. When he was caught he was given a sound thrashing and sent out. That evening, he, along with some of his friends, pooled a few annas and saw a picture called "Aggi Ramudu" where the hero adopts ingenious ways of deception and takes to Robin Hood methods to bring sense to his unscrupulous enemies. Later, returning from the picture, the two elder boys separated and thought how one of the bungalows near their house was almost similar to the one into which the hero made a daring entry. The idea caught their fancy and before they knew what was happening they found themselves inside the house, but they were so clumsy and panic-stricken that their courage gave way when an alarm was raised and they made no attempt to escape. The details of this otherwise trivial incident have been narrated merely to show that in this case the boy was already loaded for crime and the cinema merely touched off the 'trigger'. It must also be said that thousands of boys who have seen the picture have been enchanted by the portrayal and have not been affected at all.

It is, therefore, of importance that before sweeping generalisations are made, proper studies of such cases are conducted with reference to scientific and statistical data. The impact of modern civilization cannot be stemmed for fear that it might adversely affect a few unstable individuals. For that matter, the development of good communications has also helped the criminals in many ways, but on that account we scarcely think of reverting to ancient modes of conveyance.

Crime fiction and comics form another important category of suggestive literature. In recent years in India a vast amount of literature of crime and violence of an escapist nature and on the lines of detective fiction from the West has been flooding the bookstalls. The stories are laid in unfamiliar and artificial settings and hence are unconvincing. Here, in these pages of cheap thrillers, death and violence predominate and the only relief provided is the unethical

doings of detectives and their vampish secretaries. No one has a quarrel with the prolific output of this genre, had it not been that this unhealthy literature has almost displaced all other forms of fiction and serious reading for the youth. Schoolchildren of ten and twelve form part of this vast readership to the exclusion of other books. Garish book-jackets adorn these literary monstrosities, and the unfortunate feature is that many of them lack the originality and the clever application of escapism which marks the crime fiction of Western countries perfected by such masters as Kafka, and Conan Doyle, not to mention the exquisite treatment of crime by such masters as Dostoevsky, Conrad and Chesterton. They do not have the elegance of Conan Doyle or the sincerity of Simenon. To be brutally frank, many of the cheap thrillers which flood our markets are no more than cheap imitations and unashamed translations of routine trash with undue emphasis on sex and crime and totally morbid in taste.

However much one may regret that the growing generation is fed on literature of this type, the immediate issue is whether they have an adverse effect on the causation of crime. We are handicapped by lack of reliable statistics and, therefore, it is difficult to come to positive conclusions. The same applies to the influence of comic strips which is a new innovation in juvenile literature. It is, however, mostly restricted to urban areas since most of this literature is imported. While the pictorial presentation of good stories can help in the intellectual development of children, it is problematical how far it is conducive to the habit of reading. But the main objection to these comics is that they cover a vast array of sadistic material, dealing with violence and crime.

While the actual extent of the influence of suggestive literature on crime cannot be estimated, it has to be accepted that on a normal and mentally stable individual who has well assimilated the "socially accepted norms" it cannot be much. Thousands of children see the cinema, read crime novels and comics without any adverse reactions. It is in respect of the unbalanced adolescent who has not yet by habit and training adjusted himself to the social dictates that some care has to be exercised. The familiar argument that such individuals would in any case adopt crime is too fatalistic to be accepted by

enlightened opinion. In England comprehensive studies as of Blumer and Hauser⁸ and Dr. Weartham⁹ have to some extent exposed the evil influence of movies and comics on the growing generation today. The only defect of these otherwise admirable studies is that in their righteous indignation the authors have been led to ascribe the present trends in juvenile delinquency entirely to these sources. This is far from correct. The problem of juvenile delinquency has always existed and the present importance attached to it arises from the increasing awareness of the problem, thanks to the efforts of many pioneering criminologists and social workers.

In this country the present position is that, while sober newspapers and journals play down crime news, there are a large number of widely popular journals and periodicals who have no hesitation or scruple in regaling their readers with graphic and, at times, sensational descriptions of crime. The average reader gets still what he likes most ; and the same applies to the movies also. It is not uncommon to see critical attacks on films or the quality of entertainment offered and the persistent avidity for crime and fantasy, but at the same time the film industry expresses indignation over the efforts to keep entertainment healthy. There are many who completely ignore the effect of suggestive literature on impressionable children and argue that the problem cannot be solved by censorship but through general education. It is difficult to accept this, at least in the present stage of flux and change. The state cannot afford to divest itself of the responsibility of protecting children from prejudicial influences, however indirect they are. The freedom of the Press and the freedom of propagation of ideas are sacred, but if these are abused and lead to the corruption of mind of the growing generation, the State has necessarily to step in.

⁸ Herbert S. Blumer and Philip M. Hauser, "*Movies, Delinquency and Crime*", Macmillan and Company, 1933.

⁹ Frederic Weartham, "*The Seduction of the Innocent*".

14

Thoughts on Capital Punishment

THE end of Caryl Chessman in the gas chamber at San Quentin, California, in April 1960 has once again drawn the attention of India to the extremely controversial subject of capital punishment. The tragedy of Chessman was accentuated in poignancy by the sheer drama of the case in which the convict, sentenced to death in 1948 managed, with appeal after appeal, to stave off the punishment for nearly twelve years, turned author in jail, learned enough law to institute a long drawn battle with the courts, arousing keen interest in his fight in several countries. Ironically, Chessman was not to know about the last minute acceptance by a Federal Judge of San Francisco to stay the execution of the sentence for half an hour. A slip-up in dialling led to the telephone message reaching the prison authorities only when Chessman was sitting enveloped by the poisonous gas fumes.

Caryl V. Chessman was born on May 27, 1921. By the age of fifteen, he had already displayed manifestations of anti-social behaviour and was set on the road to crime. Eventually he was to face his last trial on as many as eighteen charges and was convicted and sentenced to death on seventeen counts, including theft and kidnapping with bodily harm.

In prison, Chessman proved he was no mere criminal. He set himself learning short-hand expertly enough to detect errors in the transcript of his trial proceedings, taught himself law to pick points of appeal, put his jail experiences to good use by writing of them, and converted his personal fight into an issue against capital punishment. Through innumerable petitions he managed to win further time for himself on eight occasions. During this long period of suspenseful waiting, marked by alternating hope and frustration, Chessman wrote

four novels of which one based on his experiences in prison cell turned out to be a good seller.

In his persistent and almost incredible efforts to defend himself, he achieved a remarkable understanding of the concepts of crime and punishment. Shortly before his death, he deliberated with newsmen on the vengeance aspect of the death penalty and the question he posed was what would be gained by his execution. He felt that he had a useful life before him and asserted that the inadequacies of his childhood were not of his making and were to be attributed to the society in which he was brought up. His concluding words were : "You have asked me about a future life. I believe there is none. Caryl Chessman has gone to oblivion so that society can forget a sorry lifetime."

It is not the case here that there was any miscarriage of justice or that Chessman was the victim of any vindictiveness. That he was held guilty and therefore deserved the extreme penalty cannot be denied. What is most revolting in the event, however, is the system which made it possible for a man to hover precariously on the verge of death for twelve years. Here at once is the point of condemnation of the institution of capital punishment.

The history of capital punishment shows a shifting of stress from sacrilege and offences against property to murder. Towards the end of the eighteenth century under the influence of ideas of punishment of such philosophers as Jeremy Bentham, reformers began to press for the reduction of capital crimes.

A study of penological trends in different countries reveals extremely divergent views regarding the nature of crimes which deserve the extreme penalty. For example, kidnapping, the offence for which Chessman paid with his life, in India is an offence punishable with imprisonment. Even in the United States of America the offence does not call for the extreme penalty in a majority of the States.

In ancient times, an astonishing variety of means of executing the death penalty prevailed which included impaling, drowning, destruction by wild beasts, throwing down the condemned person from great heights, stoning, gibbeting, beheading, and hanging. Some of the methods adopted in

India were trampling of prisoners by elephants or allowing venomous snakes to sting them. However, hanging is the only method which has survived from the olden days.

Electrocution was introduced in the USA in Auburn prison in 1890. Although the general impression is that death by electrocution is painless, distinguished scientists have expressed a contrary opinion on the ground that the victim may be alive for a number of minutes after the passage of the electric current and that certain persons have greater physiological resistance to electricity. At times it becomes necessary to shock a man twice or thrice before life is pronounced extinct.

The lethal gas method used in San Quentin prison to put an end to Chessman is adopted in a number of American States. It is accepted as the quickest and "the most humane method of putting a human to death". Criminologists recommend it as an "universal method of execution (till capital punishment is abolished.)

The victim is placed in an air-tight chamber with connecting pipes leading to a receptacle containing hydrocyanic gas. All the resources and ingenuity of science have been mobilized to bring the art of execution to an acme of refinement as narrated engrossingly by Albert Deutsch in his book "The San Quentin Story".

It is not necessary to describe in detail here the vicissitudes of the movement for the abolition of Capital Punishment. Several countries abolished it as early as the second half of the last century. Some have revived it while others have limited it to extreme offences. It is interesting to note that even in the United States of America, three states have abolished it, while another three have retained it only for exceptional crimes. But some states demand the extreme penalty even for arson and burglary. The restoration of capital punishment in certain states which have at one time done away with it was considered a purely hysterical measure arising from lack of balance and clear thinking following the spate of violence during the great economic depression after the First World War.

It is interesting to recall in the context of Chessman's fate what John Lewis Gillin prophesied with deadly accuracy in his "Criminology and Penology" in 1929. "Every

comparative study made of the relation between the ratio of homicide to the presence or the absence of capital punishment in a country gives negative results. In spite of the knowledge available, hysterical legislators continue to resort to the death penalty as a means of checking violence. It is possible that the public reaction to the recent wave of kidnapping will lead some States to provide death penalty for convicted kidnappers”.

The continuation of death penalty has been assailed on various grounds. Among the arguments put forward in support of its abolition are the irrevocable nature of the penalty, the element of retribution which underlies its philosophy and its disregard of the progressive view-point of reforming and rehabilitating the criminal. On the other hand, the protagonists of capital punishment argue that it is the only effective method of elimination of social and the biological misfits and exterminating dangerous human types in the larger interests of society. They further contend that in the final analysis it is only in an infinitesimal number of cases that recourse is had to the extreme penalty. Curiously, the small number of executions is also put forward by the opponents as a powerful argument in favour of its abolition.

Apart from the above considerations, the controversy is mainly centred on the point whether capital punishment has the desired deterrent effect that its supporters claim. Since, in general, the imposition of death penalty is associated with murder and connected offences, criminologists have classified murderers into three categories. Foremost among them are those who suffer from some kind of inadequacy—mental, physical, or cultural. The second category consists of persons who are relatively normal but who under the stress of some intense emotional crisis commit crime unthinkingly. On both these sets of people the fear of punishment has little or no influence. The third group of murderers on whom alone the fear of punishment may have some deterrence are the hired killers for whom taking a life is just a routine job.

The psychologists desire the abolition of capital punishment not on sentimental or humanitarian grounds but on the plea that in the battle against crime society should treat offenders as patients. The most potent argument against it is not what

it can achieve in regard to criminals, but what it does to the rest of society. Capital punishment has immense potential for harm in brutalizing the community and lowering its sense of ethical values. There is much truth in what Viscount Templewood testifying before the Royal Commission on Capital Punishment said : "It makes people gloat over crime and I think, however much you safeguard the actual carrying out of executions, they also pander to those morbid feelings that lie very near the surface in most of us and that would be much better repressed."

Coming back to the ill-fated career of Caryl Chessman, in a way it was fortunate that he appears to have had not many personal friends and relatives. Normally the extent of suffering experienced by the families and friends of those to be executed is little realized by the public. The depth of feeling is exquisitely expressed by Barnes and Teeters when they say : "The infamy connected with an execution can never be eradicated from the memory of the survivors of the victim. Children, mothers, wives and other close relatives are suddenly confronted with an overwhelming life crisis that is out of all proportion to the wrong committed by the criminal against the state—certainly to the family's relation to the wrong. There is no justification for this suffering, and it should be weighed along with other objections to capital punishment."

The challenging question which Chessman himself posed as to what will be gained by sending him to the gas chamber cannot easily be answered. What is however intriguing to the layman is that the American judicial system which could be so liberal as to allow the gruelling legal battle to be prolonged for twelve years could not offer clemency to the criminal.

In India the number of persons put to death is in the region of 500 annually. In the year 1955 556 convicts were executed as against the actual commission of 9770 murders. 18642 persons were tried in that year for the offence of murder or abetment ; of them, 6088 were convicted, but it was only an insignificant number who found themselves in the hangman's noose. In view of the extremely small number of criminals on whom death penalty is actually imposed, it is difficult to comprehend the bitter controversies that are

periodically whipped up in all countries including India. All the same, there must be some means at the disposal of modern state to rid society of dangerous and degenerate misfits whose continuance menaces society itself. Perhaps the most practical and progressive view has been expressed years ago by the Prime Minister Shri Jawaharlal Nehru : "I do hate the idea of punishment especially deterrent punishment and all the suffering deliberately caused that it involves. Perhaps it cannot be done away with completely in this present day world of ours, but it certainly can be minimized, toned down, and almost humanized. At one time I was strongly opposed to the death penalty and in theory, my opposition still continues And yet with all my repugnance for executions, I feel that some method of eliminating utterly undesirable human beings will have to be adopted and used with discretion. The real objection to the infliction of capital punishment as well as other punishments is of course not so much the resultant suffering of the person punished as the brutalization of the community that authorizes such punishment and more particularly of the individuals that carry it out."

15

Crime : Glimpses of History

SINCE crime is closely related to time and place, a brief historical review is vital to a proper understanding of its modern manifestations. Acts which had once been considered as crimes have in the process of social evolution and historical growth of institutions ceased to be so. The gradual establishment of order and the systematic development of law-enforcing agencies have greatly facilitated the suppression of certain types of crime which prevailed in the eras of political and social disorder. Similarly, usages and long-standing practices which had social and religious sanction behind them and which had accordingly the support of large sections of people have moved into the realms of crime, deserving preventive and punitive action. To this extent, therefore, the patterns of crime in the present are conditioned by the past.

The period of Indian history commencing from the seventh century before Christ to 320 A.D. is referred to by historians as the Age of Imperial Unity as well as of Laws and Philosophy. Since this age marked the beginnings of political consolidation, it also saw the beginnings of planned social life for which stability was of the utmost essence. Crime was not unknown in the Vedic Age, but the first systematic attempts to classify it were made in the Epic Period. Among the serious crimes mentioned in the epics are : treason ; perjury ; criminal misappropriation ; theft and robbery ; arson ; and poisoning of water supply.¹

It was, however, in the historic period that a more comprehensive and systematic classification of crime occurred. "The social code prescribed by the *Dharma Sutras* came to be harmonized and elaborated under the *Smritis*."² The

¹ P. N. Ramaswami, *Magisterial and Police Guide*.

² K. M. Munshi, *Introduction to "The Age of Imperial Unity"*.

Manusmriti was the first exposition of the Hindu legal systems and proclaimed the fundamental law of social relations. Manu classified crimes under 18 heads among which were included assault, defamation, theft, robbery and violence, adultery, gambling and betting.³ Caste privileges were reflected in the application of law, as implied in the general exemptions granted to Brahmanas in the matter of Capital Punishment. The degree of seriousness of a crime also depended, to a great extent, on the caste of the perpetrator. Yajnavalkya, who had the distinction of arranging the materials of *Manusmriti* in a more systematic manner, dealt at great length with offences against public justice—with particular reference to perjury and failure to give evidence. The law of crimes, as enumerated by Narada, however, was more complex than the preceding *Smritis*. Although he admitted that crimes were mainly offences against the State, he held that some were in the category of sins—to be expiated as well as compensated. He distinguished theft from violence and divided the former into three categories according to the value of the property involved. Harbourers and persons who failed to render necessary assistance in the apprehension of criminals were considered as accomplices.

The last of the *Rishis* who codified crimes was Brinaspatis. He classified Manu's eighteen heads into two main divisions. Fourteen of them pertained to the category of crimes springing from wealth, as for example, theft and gambling. The rest which included violence *Parushya* were related to acts injurious to others. U. N. Ghosal considers this division as an "important land-mark in the history of the Hindu Law, for it implies the first clear recognition of the division between the civil and the criminal law."⁴

The period between 320 A.D. and 650 A.D. was one of transition so far as codification of the laws was concerned. Katyayana was "the last of the great authors of *Smritis* whose history may be traced back to Gautama and Vasishta, perhaps a thousand years earlier."⁵ Katyayana stressed more the punishment of crimes than the element of compensation for

³ U. N. Ghosal, *Law and Legal Institutions—The Age of Imperial Unity*.

⁴ *Ibid.*

⁵ U. N. Ghosal, *Law and Legal Institutions—The Classical Age*.

wrongs done. Crimes, according to him, were of four kinds :—

Vakparushya (abuse or defamation). This was again sub-divided into three categories—*Nishtura* (Reproachful), *Aslila* (Indecent), and *Tivra* (More Serious).

Dandaparushya (Assault), which included injury to limbs.

Sahasa (Violence). This included murder, robbery, assault on another's wife, causing injury to precious articles and damage to temples.

Steya (Theft). This amounted to depriving a person of his wealth—clandestinely or openly. To the latter category belonged traders who used false weights and measures, and incompetent priests who fleeced the innocent.

Thus in ancient India, crime and allied questions of punishment had engaged the attention of the best intellect in the country and the series of *Smritis* were the co-ordinated attempts of great thinkers to evolve a satisfactory code of conduct for the people. In course of time, due to the impact of Muslim invasions, and the consequent changes brought about in the spiritual and social content of the people, certain changes were inevitable in the character of crime too. The discrimination of caste in deciding the seriousness of a particular crime was eliminated. New types of crimes were created under the stress of hazardous transitions, and in the flux of changing social customs and traditions. The unsettled conditions following the break-up of the Mughal Empire witnessed an enormous increase in the incidence of crime. At the end of the eighteenth century, crime had reached new heights of violence. The mercenary armies raised by the members of the Maratha Confederacy were always in arrears of pay and lived by pillage. Their government had been aptly described as "robbery of a high type". In the wake of their recurring predatory excursions, crime assumed hideous forms and reached inconceivable proportions. The Maratha armies were followed by hordes of plunderers—the Pindarees, whose notorious exploits of murder, arson and loot constitute the highest water-mark in professional crime in the annals of this country.

It is against this background of ruthless crime and violence that systematic attempts to control crime and organise an effective instrument of criminal justice were made by the

British in the course of their empire-building. Among the revolting types of crime prevalent in India in the last century were Thuggee, Suttee, female infanticide and human sacrifice. These practices are now totally extinct, but once in a while, in some far off corner, a stray case comes to the notice of the authorities. It is not difficult to see behind these isolated and infrequent instances frames of mind which had responded in a bizarre manner to the powerful influences of superstition, ignorance and mistaken religious zeal in the last century. Some of the forms of crime which had figured prominently in the records of the last century, their origins and development and the extraordinary measures taken to suppress them deserve a close examination since they not only highlight the magnitude and the nature of crime which prevailed in the country a little over hundred years ago, but project the problems of crime control in a proper perspective.

The history of Thuggee is as fascinating as it is blood-curdling. Among the earliest sources of information regarding Thuggee and its deadly practices are the world-famous Ellora caves whose construction is traced to the eighth or ninth century after Christ. A number of sculptures have been identified as pertaining to the nefarious profession of dacoity and Thuggee. In these sculptures all the stages of Thuggee operations are depicted with strict adherence to the minutest detail : the inveigler lulling the unwary travellers to a false sense of security by his social charms ; the strangler with his scarf, poised for the attack ; the hasty transport of bodies to graves prepared in advance ; and the final stages of burial. The Thugs were aware of the significance of the sculptures and believed that the sculptures were the work of gods "who knew the secrets of all mankind and amused themselves by describing them".⁶

The origin of Thuggee is steeped in antiquity. The Thugs worshipped Kali, the consort of Lord Shiva. A number of legendary traditions were narrated at length by Sleeman in his 'Rambles and Recollections', and in various reports which he prepared from time to time in connection with the operations launched for the suppression of Thuggee. According to him,

⁶ Sir Francis Tuke, *The Yellow Scarf*.

“the system of Thuggee or Phanseegere, originated with some parties of vagrant Muhammadans who infested the roads to the ancient capital of India. Herodotus, in his Polymnia, mentions, as a part of the army with which Xerxes invaded Greece, a body of horse from among the Sagaratti, a pastoral people of Persian descent, and who spoke the Persian language. Their only offensive weapons were a dagger and a cord made of twisted leather with a noose at one end. With this cord, they entangled their enemies, or their horses, and when they got them down, they easily put them to death.”⁷

The earliest historical reference to the Thugs was made in the History of Firoz Shah, written by Zia-ud-Barni in the year 1356, which recounts that in or about A.D. 1290, about a thousand members of this notorious banditry were apprehended and transported to Lakhnaut. They are next mentioned during the reign of Akbar (1556—1605) when “some five hundred of them were captured in the Etawah district, always notorious for crime”.⁸ Perhaps the most graphic account of the deadly fraternity is available from Thievenot’s *Travels* first published in 1687. In a painstaking and admirable paper prepared in 1816, Dr. Sherwood, a surgeon on the establishment of Fort St. George, Madras, furnished a comprehensive account of the Thugs or Phanseegars as they were called in the South. His attempts to find the origin of the gangs led him to the *Travels* of Thievenot from which he quoted extensively. Speaking of his road journey from Delhi to Agra, Thievenot wrote : “The cunningest robbers in the world are in that country. They use a certain slip with a running noose which they can cast with so much sleight about a man’s neck, when they are within reach of him, that they never fail so that they strangle him in a trice”.⁹

The Phansigars, or stranglers, are thus designated from the Hindustani word, *Phansi*, a noose. In the more northern parts of India, these murderers are called Thugs, signifying deceivers ; in the Tamil language they are called *Ari Tulucar*,

⁷ W. H. Sleeman, *Introduction to “Ramaseeana”*, G. H. Hutman, Military Orphan Press, Calcutta, 1836.

⁸ *Rambles and Recollections of an Indian Official*, W. H. Sleeman : Vol. I, edited by V. A. Smith, ICS. Archibald Constable and Co., London, 1843.

⁹ Quoted from Thievenot’s *Travels*, first published in 1687.

or Mussulman noosers ; in Canarese, *Tanti Galleru*, implying thieves who use a wire or cat-gut noose ; and in Telugu, *Warlu Wahndlu* or *Warlu Vashhay Vandlu*, meaning people who use the noose.¹⁰

Whatever might have been the origin of Thugs, there is no doubt that their faith in its divine origin is of Indian growth, "and has been gradually produced by the habit of systematically confounding coincidences and events with cause and effect."¹¹

As regards the legends attached to the mysterious practices of the Thugs, we have to turn once more to Sleeman. "Once upon a time the world was infested with a monstrous demon named Rakt-bij-Dana, who devoured mankind as fast as they were created. So gigantic was his stature that the deepest pools of the ocean reached no higher than his waist. This horrid prodigy, Kali cut in twain with her resistless sword, but from every drop of blood that fell to the ground there sprang a new demon. For some time she went on destroying them, till the hellish brood multiplied so fast that she waxed hot and weary with the endless task. So she paused for a while, and from the sweat brushed off one of her arms, she created two men to whom she gave a *rumal* or handkerchief and commanded them to strangle the demons. When they had slain them all they offered to return the *rumal*, but the goddess bade them keep it and transmit it to their posterity, with the injunction to destroy all men who were not of their kindred."¹²

As to the deadly origin of the scarf, there was yet another legend which was also narrated by Sleeman. According to this account, the goddess was co-operating with the Thugs to the extent of devouring the victims to save them the trouble of interring them. On one occasion, one of the members turned back and saw her in the very act of devouring a traveller whom the Thugs had destroyed. Angered, she declared that she would no longer devour those whom the Thugs had destroyed, but condescended to present them with one of her teeth for a pick-axe, a rib for a knife, and

¹⁰ "Of the Murderers called *Phansigars*, by Dr. Sherwood, and communicated by Col. Mckenzee—vide Appendix V to *Ramaseeana*.

¹¹ W.H. Sleeman, Introduction to "*Ramaseeana*".

¹² W.H. Sleeman, *Rambles and Recollections of an Indian Official*, Vol. I.

the hem of her lower garment for a noose, and ordered them for the future to cut and bury the bodies of those whom they destroyed.¹³

Such was the legendary belief which surrounded the Thug organisation whose murderous activities reached a climax in the early years of the 19th century. In April 1810, the Commander-in-Chief of the Army thought fit to issue an order cautioning the troops proceeding on leave against the dreadful evil of Thuggee in the following terms: "It has been said that these murderers when they obtain information of a traveller, who is supposed to have money about his person, contrive to fall in with him on the road or in the *Sarais*; and under pretence of proceeding to the same place, keep him company, and by indirect questions get an insight into his affairs, after which they watch for an opportunity to destroy him. This they sometimes create by persuading the traveller to quit the *Sarais* a little after midnight, pretending it is near daybreak, or by detaching him from his companions, lead him under various pretences to some solitary spot".¹⁴

This organised system of murder was prevalent all over India and made travel extremely hazardous. Gangs of Thugs, sometimes in hundreds, infested the roads on the look-out for unwary travellers. They fell in with them and generally succeeded in ingratiating themselves with them through diverse methods. To the weary traveller their company was welcome, and their community singing a solace. The Thugs were adept in disabusing them of the fears of the road, for their appearance was so innocuous and their manners so sweet that the traveller followed them without a question. After lulling them to a false sense of safety, the Thugs prepared for the final act of murder with extreme care and precision to avoid the risk of detection. And when the victim least suspected his imminent fate, they struck, for the deceivers (*Sotha*) had played their roles intelligently. The scouts would have already gone in advance and the grave-diggers would have prepared the *bele* at a pre-arranged

¹³ W. H. Sleeman, *Rambles and Recollections of an Indian Official*, Vol. I.

¹⁴ W. H. Sleeman, Introduction to "*Ramaseena*".

place. When the party reached the chosen spot—usually a cool mango grove—and stopped for a meal and community singing, the Thugs would disport themselves in a suitable manner round the intended victims. Suddenly, in the midst of this idyllic gathering, at the call of the leader (*Jhirni*) flashed the yellow scarf, the deadly *rumal*. While two stranglers (*Bharote*) flung the noose about the victim's neck, the *Chamolhi* threw him on the face and dealt a sudden jerk to break his neck. Thereafter the victims were looted and doubled up and buried. After burial "they would sit about on the top of the graves continuing their sing-song or planning the next crime. They did not necessarily deal with single men ; they would often kill a dozen at a time."¹⁵

The murderous incursions of the Thugs covered the entire country, but particular mention must be made of Malwa, Khandesh, Gujerat, Oudh, Nerbudda territories and Jabalpure. The papers of Dr. Sherwood show how extensive were the activities of the Phanseegars in Andhra Pradesh and Carnatic. In Bengal, the system of murder and robbery was adjusted to the travel on the innumerable waterways, where the Thugs plied the boats for wayfarers and in the course of the long journey destroyed them and threw their bodies down the river. Their methods were as ingenious as they were horrible. J. L. Sleeman who had himself followed his more famous uncle in these hazardous operations estimated that annually about forty thousand people lost their lives on the roads in the country. There is no reason to assume that the estimate was exaggerated. The conditions of extreme insecurity that prevailed in those days confirm that it could not have been far wrong.

It would be difficult to present in a few brief paragraphs the extensive operations of the deadly killers or enumerate the incredible doings of a multitude of gangs led by those intrepid criminals. The point is that the conditions prevailing in the early years of the growth of the British Empire were conducive to the development of the criminal elements which embraced at times even the most innocent village folk who

¹⁵ W. H. Sleeman, *Rambles and Recollections of an Indian Official*, Vol. I.

lived normal lives as cultivators for a part of the year and adopted the hazardous profession of Thuggee during the rest. The reasons why these revolting crimes and the extreme moral debasement attached to them were not exposed are not far to seek. They could be easily traced to the loose administration in the throes of political confusion, intermittent wars, inefficiency of the infant police systems and, finally, here was the most potent factor which was to prove the greatest hurdle, the capacity of the local zamindar and the village head. It was not uncommon for the landholders and the zamindars to draw considerable income from the loot of the robbers by giving them the necessary protection from law. The presence of innumerable princely States with varying degrees of enlightenment and administrative efficiency was another vital factor which Sleeman and his band of officers had to contend with in the war against the evil. Indeed the perilous campaigns against the Thugs were carried out in the face of insurmountable difficulties and their suppression will undoubtedly rank as one of the greatest achievements of the East India Company.

Most notorious among the Thugs whom William Sleeman ran down to earth was Phirangee. In the last expedition before his apprehension, Phirangee was responsible for the murder of one hundred men and five women during the course of a few weeks. The scant respect they had for the forces of law and order and the freedom with which they carried on their depredations without fear of apprehension can be gauged from a deposition of Phirangee himself in respect of a Subedar-Major recorded on 17th December, 1832. "About ten years ago in the month of Magh, I was with a gang of nearly one hundred Thugs at Lakheree, in the Boondie territory, lodged in some deserted houses outside the town to the east, when Akbar Khan Subahdar came up with eight companions, six being bearers, one a Sepahee, and one a servant of the Subahdar. He was very ill and carried by six bearers in a *dotie*. And he took up the quarters near the *Bowlee*, intending to move on the same day, after resting a little at Indergur, which is too *cose* from Lakheree. He asked us to go on with him to Indergur, and after he had gone on, Khuluk, Bichoo, Aman and Chotee went after him with forty Thugs of our gang, and reached Indergur.

I with sixty under Dhunooa and Ninha, Jamadars, remained at Lakheree with five travellers on their way from Kotah to Cawnpore, a Rajpnt, two Brahmins, and two Kaets. These men were killed that evening at Lakheree and we went on to Indergur with the booty after midnight.

“At Indergur, we lodged at the Tukea of a *Fakeer*, near a *Bur* tree. In the morning we left Indergur and lodged at the village of Pachoola, in Jeypore, and in the following morning reached Sherepore with the Subahdar and his party. Having determined to kill them, on leaving the place, we in the afternoon sent on Khomana and Jungule to choose a *bele* and they chose one a *cose* distant on the road to Herowtee in a hill. In the morning we set out before daylight and on reaching the spot chosen, Aman gave the *Jhirnee*, and they were all killed, and the bodies were buried in the hill . . . Three months after, while we were encamped at Madhoorajpur, two men, relations of the Subahdar, came and asked us whether we had heard anything of the Subahdar and told us all they knew about him. We had an iron-grey pony that we got in the booty from the Subahdar, and we threw a cloth over him lest they should recognise it.”¹⁶

As an example of the tenacity of purpose and the ingenuity of the Thugs when they were on the trail of some selected victims, is cited the fate which befell a Mughal nobleman. While on a journey, the Mughal, fully armed and protected by a small retinue, would have nothing to do with the Thugs, when they expressed their desire to join his party. The next morning they made another attempt—this time in the guise of Muslims—and tried to impress on him the dangers of the road. Still suspicious, the Mughal was determined to have no truck with the strangers, and drove them away. Undaunted by these rebuffs, the Thugs lodged in the same serai that evening and succeeded in winning the confidence of the traveller's entourage. The nobleman was still suspicious and drove them away in spite of the servants' entreaties. Having thus failed to join the party, the Thugs hit upon an ingenious plan to beguile the Mughal. On the following day, in a deserted plain, the nobleman came across a hapless batch of five Muslim Sepoys weeping

¹⁶ W. H. Sleeman, “*Ramaseeana*”.

inconsolably by the side of a dead companion, who, they explained, had died of exhaustion under tragic circumstances. The Sepoys appealed to the nobleman to perform the funeral rites which they were not in a position to perform, being totally illiterate. Moved by their piteous appeals, the nobleman dismounted, disarmed himself, and knelt down beside the corpse to pray. At this precise moment, the deadly signal *Jhirna* was given, and in a few moments' time, the Mughal and his band of servants found their last resting places in the prepared graves nearby. The body over which the macabre drama was staged was that of an earlier victim who had been deliberately killed for the purpose. About the incredible callousness of the Thugs Sherwood says appropriately : "What constitutes the most odious feature in the character of these murderers is that, prodigal as they are of human life, they can rarely claim the benefit of even the palliating circumstances of strong pecuniary temptation. They are equally strange to compassion and remorse . . . Phansigaree, they observe with cold indifference blended with a degree of surprise when questioned on the subject, is their business which, with reference to the tenets of fatalism, they conceive themselves to be pre-ordained to follow."¹⁷

The difficulties in eradicating the Thug evil which had grown through centuries can be well imagined if it is recognized that the campaign against it had to be conducted with the help of police forces which were just in the process of formation and early organisation and in the face of difficulties arising from lack of proper communications. Official apathy was also a contributory factor. It is curious to know that Sleeman's opinions regarding the extensive nature of the deadly profession of Thuggee were looked upon with derision and even for a while treated as an obsession on the part of a well-meaning junior political officer. It was good for India that Sleeman was unshaken either in his conclusions or his determination to root out the scourge. His persistent efforts to convince his contemporaries of the gigantic ramifications of the system earned him the sobriquet of Thuggee Sleeman, but they were at last successful. With his assignment in 1830 of

¹⁷ Dr. Sherwood, "*Of the Murderers called Phansigars*".

directing the operations for suppression of Thuggee a new chapter in the annals of law enforcement in this country opens. Through a succession of daring campaigns involving pursuit and apprehension of hundreds of Thugs and through them their associates and companions, Sleeman and his band of devoted officers curbed the activities of the organisation and broke up its gangs. Gradually the special agency which was created to suppress the Thug gangs was expanded to cover all the presidencies. Guided by Sleeman who had studied the problem in all aspects and had gathered full knowledge of the habits, customs, hideouts and language of the Thugs, complete genealogical trees of Thug families were prepared and supplied to the officers on the spot to enable them to anticipate their moves and forecast their expeditions with a fair degree of accuracy. Through the policy of taking approvers to disclose the secret hideouts and activities of the innumerable gangs which infested the road, the campaign was speeded up. Full support came from the Governor-General, Sir William Bentinck who, through a series of regulations and special Acts and constitution of special courts, strengthened the forces of law. According to a report prepared in 1840, during the preceding seven years, 3,689 Thugs were committed for trial of whom 466 were hanged, 1,564 transported for life, 933 imprisoned for life and 56 taken as approvers.¹⁸ Yet so firmly entrenched was the organisation that it took many years of patient work to rid the country completely of the evil. In 1848, a further batch of 120 Thugs were arraigned and since then, the deadly practices of the Thugs were a spectre of the past, except for a brief outbreak in 1853 which was put down with vigour and utmost promptitude.¹⁹

Among the devoted lieutenants of Sleeman who contributed to the success of the campaign were Captain Reynolds, Wilson, Mcleod, Paton and Major Borthwick whose names will continue to inspire the men whose avowed duty is to fight against crime and violence. But towering above them was William Sleeman himself whose whole life was devoted to the task which he took upon himself with courage, steadfastness and

¹⁸ Sir Francis Tuke, *The Yellow Scarf*.

¹⁹ *Ibid*.

a sincere desire to bring a sense of security to the people whom he loved and tried to understand in those turbulent times. In 1853—almost at the end of his long and meritorious career—Sleeman could look back upon his achievement with satisfaction and pride : “I do not say there is no such thing as Thuggee at the present time in any part of the Company’s dominions. It is probable still that an occasional traveller may, from time to time, be strangled by the way-side. But the cases are few in number and comparatively insignificant in character. The system is destroyed ; never again to be associated into a great corporate body. The craft and the mystery of Thuggee will not be handed down from father to son.”²⁰

Thuggee was stamped out by the middle of the last century, but it left in its wake a sordid type of crime in the form of professional poisoning. Although the empirical touch of romanticism was absent in the poisoner’s craft, it had more revolting features and a greater degree of safety from detection. The poisoner plied his deadly trade in *choultries* and village fairs, and in recent years in lonely rural railway stations. He used Dhatura, easily available in villages, and administered it under the cloak of gratitude for small favours done or in return for the hospitable companionship provided on the road. Indeed, the criminal tradition of Dhatura poisoning died hard, and occasional cases are reported even today.

The prevalence of female infanticide in certain sections of the community was first brought to the notice of the East India Company by Jonathan Duncan while he was Resident at Benares in 1789.

Subsequently when he became the Governor of Bombay, he found the practice in varying degrees in Cutch, Gujerat, Jodhpur and several states of Rajputana. The practice originated from the tribal pride of certain sections of Rajputs who insisted on high marriages for their daughters and their inability to incur heavy expenditure in performing them. When it was felt that the financial status of the family would not permit such marriages, they would not allow their progeny to suffer the indignities of low or even equal marriages. The result was infanticide.

²⁰ Sir Francis Tuker, *The Yellow Scarf*,

The gruesome details of the crime and the callous disregard of child life are best narrated by W. R. Moore who conducted an enquiry into the barbarous practice in 1856 :

"The usual process is to deposit the infant in an earthen pan on the floor, place the afterbirth on its mouth, and leave it to perish. Should the desired effect be not produced sufficiently quickly, the juice of the *madar* plant, powdered tobacco, salt, or a small quantity of opium mixed in oil or milk, soon produce death.

"The agency employed is generally that of the attendant midwife or nurse ; occasionally also one of the aged female members of the family performs the horrible and unnatural deed. The body is usually buried on the edge of some nullah or stream."²¹

Apart from Jonathan Duncan, others who worked wholeheartedly to eradicate the primitive practice which was as abhorrent as it was cruel, were : Col. Walker at Baroda, Sutherland, Thoresby and Ludlow in Rajputana, and Montgomery in Allahabad. In general, the early attempts were through persuasion and education, and through attempts to eradicate the roots of the evil, viz., reducing the marriage expenses which ruined the families. But in actuality the suppression of the practice took a very long time. As late as in 1856, W. R. Moore conducted an enquiry with specific reference to Banaras Division and made staggering discoveries. He found that there were as many as 308 villages in which the crime was prevalent and in 62 villages there did not exist a single girl below the age of six. It was indeed a practice "which had flourished for many years and in many cases for many centuriesSuch as it is impossible to contemplate without horror."²² The report of Moore stressed the need for stringent and coercive action, and this was done in 1870 by framing necessary rules for the registration of births and verification of survival of girls in areas where the practice was prevalent.²³ This meant a greater degree of interference with the liberties in the domestic sphere which would today be looked upon with

²¹ W. R. Moore, *Female Infanticide in Benares Division*, Home Secretariat Press, Calcutta, 1868.

²² W. R. Moore, *Female Infanticide in Benares Division—1868*.

²³ *Cambridge History of India*.

incredulity and horror. But the final liquidation of the practice could be effected only through stringent penal action.

The practice of 'Sati'—the burning of widows on the funeral pyres of their husbands—stood on a different footing and the history of its suppression makes engrossing reading. The practice owed its origin to an ancient custom among the Scythian tribes of Central and Western Asia who had found their way into India through the North-Western passes in the early centuries of our history.²⁴ In course of time it assumed an aura of romanticism and transformed itself into a symbolic gesture of the Hindu wife's devotion towards her husband. There was, however, no universality of application of the principle, and *Smriti* law contained diverse decisions and recommendations. The Hindu law in the pre-Gupta period required the widow to lead a life of strict self-restraint and total denial of comfort, though Brihaspati recommended as an alternative that she should burn herself on the funeral pyre of her husband.²⁵ Literary sources show that during the Gupta age the custom was extolled by some while strongly condemned by others.²⁶ The increasing stresses following the Muhammadan invasions and the pillage and destruction which followed in their wake, lent the custom glamour and a spirit of supreme abnegation. The chequered history of Rajputana is full of instances of mass funerals of wives in the face of imminent victories of hostile armies. The fifteenth and sixteenth centuries were noteworthy for similar mass immolations in fire as witnessed at the funerals of the Rayas of Vijayanagar.²⁷ These historical developments must have been responsible for the gradual introduction of the element of compulsion into the practice. Thus during the course of centuries the practice became compulsory as well as voluntary ; and association of religious sentiments for a long time was the most obstinate hurdle in the way of undertaking stringent measures for its repression.

Spasmodic attempts to control 'Sati' were not successful and the years which were noted for the prevalence of Thuggee

²⁴ P. N. Ramaswami, *Magisterial and Police Guide*.

²⁵ U. N. Ghoshal, *Social Conditions : "The Classical Age"*—Bharatiya Vidya Bhawan, 1954.

²⁶ *Ibid.*

²⁷ T. V. Mahalingam, *Administration and Social Life in Vijayanagar*.

and infanticide were also known for bitter controversies which raged in regard to 'Sati'. During the year 1818, the Presidency of Bengal including Rohilkhand recorded as many as 839 burnings.²⁸ It is difficult to say how many rural immolations—voluntary or forcible—had escaped the notice of the authorities. In many cases the officials were helpless spectators of the heart-rending scenes, as Sleeman himself was on the banks of the Narbada in 1828. The Government was fully aware of the practice and was keen to suppress it, but neither Cornwallis in Bengal nor Elphinstone in Bombay was bold enough to interfere. The report prepared by the 'Nizamut Adalat' at the instance of Wellesley in 1805 advised gradual prevention but it was not till 1813 that the government could take a positive step by penalizing compulsory burnings. Unfortunately those orders were misinterpreted as conveying the government's partial approval of the age-old custom. Indian public opinion led by the illustrious Raja Ram Mohun Roy had also been pressing for immediate reform. In 1823 the Court of Directors of the East India Company went to the extent of directing Lord Amherst to move in the matter. Yet, once again the fear of wounding the religious susceptibilities of the people made Lord Amherst hesitate for the next six years. Thus, it was to Bentinck that the 'eternal honour' of finally prohibiting 'Sati' fell. In 1829 'Sati' was declared illegal, its abetment punishable as culpable homicide and compulsion, a capital offence. An appeal against the order was rejected in the Privy Council and the practice which traced its origin to Vedic times vanished gradually and its commission became a heinous crime.

Another barbaric practice which was prevalent during the last century in the hilly tracts of Orissa was human sacrifice. Its suppression, however, presented no difficult problem, since in this case "the religion was primitive, the custom was followed by only a small group of tribes and its suppression did not carry with it the possibilities of political danger which had made the government hesitate so long as in the case of Sati."²⁹ The horrible practice came first

²⁸ P. N. Ramaswami, *Magisterial and Police Guide*.

²⁹ *The Cambridge Shorter History of India*.

to notice during the course of a minor rebellion in the area when the British officers serving in the campaign discovered that some primitive tribes performed the annual sacrifice to maintain the fertility of their soil. For this purpose, a class of victims known as "Meriahs" were maintained to be chosen yearly for sacrifice, "every cultivator seeking to obtain a shred of flesh to bury in his field."³⁰ In 1845, a special agency under Col. Campbell succeeded in putting down the practice through penal action and gradual enlightenment of the tribes concerned.

The history of suppression of some of the peculiar forms of crime which had once disfigured the Indian subcontinent provides a convincing answer to theoretical criminologists who put forward idealistic suggestions to solve the problems of crime. Superstition, ignorance and social exploitation were, no doubt, responsible for the prevalence of such crimes through long centuries, but it is difficult to accept the claim that they would have automatically disappeared with the elimination of some of the sociological factors, without concurrent penal action of requisite strength and determination. In any case, the process of crime elimination would have been tedious and would have involved immense human suffering. There is a tendency on the part of criminologists either to minimize the role of the law-enforcement agencies in the suppression of crime or to decry their efforts without a realistic appraisal of the enormous difficulties which they have to contend with. The enduring work of the special agencies which were called upon in the last century to put down the age-old anti-social practices shows the extent to which law-enforcing organisations can be used purposively if they are sufficiently equipped and supported in the war against crime.

³⁰ *The Cambridge Shorter History of India.*

16

Evolution of the Police in India

A remarkable feature of the administration of criminal justice in ancient India was that, although the concepts of crime and punishment were highly developed, no serious attempts were made to forge an organized and effective instrument of law-enforcement in the form of an investigative and preventive agency. The reason lay in the manner of evolution of Law itself which began under the pastoral conditions of the Vedic age when the duties of the King (*Rajadharma*) and the principles of justice were enunciated. Crime is as old as man, and we find references to robbers in the Rig Veda.¹ But the very fact that these anti-social acts did not lead to the establishment of an executive arm of law was due to the ancient concept that the king needed no special agency ; all his subjects were required to assist him in the prevention and detection of crime.

The transition from pastoral and agricultural conditions to urban life with cities of such magnitude and splendour as Ayodhya, Mithila and Hastinapura posed new problems in the maintenance of order. The king's responsibility for ensuring internal order was re-iterated in the context of growing complexities of life in the epic age². The new cities required some governmental machinery for the control of multitudes in public places. References to such an organization can be gleaned from classical literature as, for example, the following passage from *Valmiki Ramayana* (Sundarakanda, IV.16)

“Hanuman saw in Lanka.....
those that carried heavy clubs and
batons as weapons (*Dandayudharanapi*)”³

The *Dandayudhadharas* whom Hanuman noticed in the streets of

¹ *The Rig Veda*, (1, 42, 2, 3)

² *The Mahabharata*, Sabha Parv.

³ By courtesy of Shri C. Sivaramamurthy, Keeper (Archaeology), National Museum, Delhi.

Lanka can be identified with policemen posted in the thoroughfares to maintain order. The weapon *Danda* which might have been a short lathi or a truncheon symbolized the supremacy of law, and the man who wielded it was the representative of the King in the name of law. All the same, it will be merely hazarding a guess to see in these stray references a perfect system of police as understood by us according to modern concepts. The evolution of the police cannot be entirely divorced from a scientific spirit of inquiry in the investigation of crime. This was absent in the Epic Age, and hence the widespread recourse to ordeals by fire and water.

Yet another development which retarded the growth of a police organisation in ancient India occurred during the Age of Laws and Philosophy (800-300 B.C.) when law was codified by eminent sages, Manu, Gautama, Narada and others. They laid the responsibility for investigation of crimes on the judges (*Dharmapalakas*) themselves. The modern concept that it might be better done by a separate and specially trained agency had not occurred to them. Instead greater facility for investigation was sought to be given to the courts. For, *Sukraniti* lays down : "Foresters are to be tried with the help of foresters, merchants by merchants, soldiers by soldiers and in the village by persons who live with both parties"⁴. The principle underlying these recommendations was the recognition of the need for expert local knowledge as accepted by Manu himself.⁵

While thus the development of a law-enforcement agency was halting and confused in the Epic Age, the king did not neglect intelligence. The extensive employment of spies—civil as well as military—was recommended by ancient Hindu writers. The *Ramayana* and the *Mahabharata* are replete with references to the duties and the exploits of spies. The spies kept the king well-informed not only of the plans and intentions of his enemies but also of the movements of his own ministers and officials and the reactions of the common man. The idle gossip of awas herman which was the genesis for the poignant developments in *Uttara Rama Charita*, was carried to the ears of the king through an efficient, if tactless, intelligence organization.⁶

⁴ Sarkar, *Sukraniti*.

⁵ Justice P.N. Ramaswami, *Magisterial & Police Guide*, Vol. 1.

⁶ Bhavabhuti, *Uttararamacharita*.

The administration of criminal justice did not undergo any significant changes in Buddhist India (300 BC-300 AD). It was an age of deep humanitarianism which attempted to imbue the administration with those high ideals. Although Asoka inherited from his forbears an efficient bureaucratic set-up, the stress was on the observance of the law of piety which in its turn was expected to lead to proper justice and reduction in crimes. The *Dharma Mahamatras* whom King Asoka appointed were, therefore, more in the nature of censors of public morals.

Although the Brahminical and Buddhist traditions embodied in the *Puranas* and the *Mahavamsa* supply scraps of information regarding the socio-political conditions prevailing during the overthrow of the Nandas, it is to the works on politics and literature that we have to turn for a clearer picture of the police system. *Arthashastra* has been ascribed by historical tradition to Kautilya (Vishnugupta) belonging roughly to the period 350-275 BC. The book may be described as a "manual of political economy as well as a work on polity"⁷ and in the words of the author "that science which treats of the means of acquiring and maintaining the earth," as distinct from the sciences which deal with *Dharma*, *Karma* and *Moksha*. It was also called "*Dandaneeti*"—the science of the sceptre. We are mainly concerned with that part of the book which deals with civil and criminal law. The *Arthashastra* lays down that, in regard to law and order in the state, it was the duty of the king to exercise his executive authority to prevent violence which was governed by *Matsyanyaya*, for in the absence of stability and security of person and property, the strong would attack the weak just as in the limitless bounds of the ocean the stronger fish prey upon the weak. Kautilya was fully aware of the supreme necessity of instituting punishment for the maintenance of social order. "When the law of punishment is kept in abeyance, it gives rise to such disorders as implied in 'matsyanyayamudbhavayati',⁸ for in the absence of a 'dandadharabhave' (magistrate or policeman), the strong will swallow the weak." *Nagaraka* mentioned in the *Arthashastra*

⁷ R.S. Pandit, Visakhadatta's *Mudra-rakshasa*.

⁸ *Arthashastra*, Bk. 1, Ch. IV (Translated by R. Shamasastri).

can be identified with the chief of city police. He performed some police functions and controlled the city with the assistance of *Gopas* who were in charge of wards and kept a close check on the movements and incomes of the citizens.⁹

It is, however, Sudraka who furnishes better glimpses of the police in ancient India, for contrary to literary tradition, he drew his characters from every class of society—from the high-souled *Brahman* to the conscientious policeman. In his superb play *Mrichhakatika* we find the city of Avanti with its streets teeming with glamour, courtesans, irresponsible gamblers, drunken courtiers and potential murderers. Where else could the policeman be more in need? And no wonder Sarvilaka, engaged in the nocturnal venture of burglary, prays :

“My trade would fain from watchman’s eyes be
shrouded ;”¹⁰.

His anxiety is a pointer to the existence of efficient patrolling in the city at night. We also see policemen being mobilised in an emergency such as the escape of a dangerous prisoner ; his pursuit ; the conduct of searches ; and the system of passports issued by the police to guarantee safe travel. But what is of immense interest is the concept of duty of the policeman as voiced by Viraka, whose code of discipline and devotion to duty are admirable.

“I do not know my father when I’m serving my king”.¹¹
The concept is further developed in the ensuing conflict of Chandanaka, another captain of the King’s guard. Caught between the dictates of duty and a desire to help a good man in distress, his predicament is as vividly portrayed as was done centuries later by Victor Hugo when he sent sensitive Inspector Javert to self-immolation on the banks of the Seine in the haunting climax of ‘Les Misérables’. Chandanaka solved the problem differently :

“He who gives aid to frightened men,
And joys his neighbour’s ills to cure,
If he must die, he dies ; but then,
His reputation is secure.”¹²

⁹ *Ibid.*

¹⁰ *The Mrichakatika*, Act 3 (Translated by A.W. Ryder).

¹¹ *Ibid*, Act 6.

¹² *Ibid*, Act 6.

We may not approve of Chandanaka's conduct in assisting Aryaka to escape, but the policeman's predilection in the discharge of his duties highlights the eternal conflict between the call of pity and the rigidity and impersonality of law.

The *Mrichakatika* is also important from our point of view for the interesting light it throws on judicial processes. The Judge lays down the rules: "We have to consider the allegations, then the facts. Now the investigation of the allegations depends upon plaintiff and defendant. But the investigation of the facts must be carried out by the wisdom of the judge."¹³ It may be noted that the emphasis was on the capacity of the judge to ascertain the true facts, mainly in the court itself. But there was no ban on entrusting it to an intermediate agency like the police. Indeed, during the course of Charudatta's trial on charges of murder, the police captain is deputed to investigate and confirm the existence of the *corpus delicti*. The questions put to him by the court and Viraka's answers confirming foul play purely on circumstantial evidence are strangely reminiscent of modern court proceedings and cross-examination of investigating officers.

That the police as a separate organisation, albeit in an elementary form, existed during the Gupta Age is confirmed by Visakhadatta's *Mudrarakshasa* written in the fifth century A.D. No doubt this literary work has as its central theme the science of diplomacy supported by a powerful army and an efficient intelligence service as prescribed in the *Arthashastra*. It is a story of spies and their machinations in the remorseless duel of wits between two astute ministers, but it contains stray references to the police too. The reference to *Kalapasa* and *Dandapasa* emphasise the efficiency of the administration of criminal law. A noteworthy feature, however, is that these two officials are conjointly mentioned whenever punitive action is intended¹⁴. Literally they mean holder of the noose of death and of executive authority—an example to indicate that the magistrate combined in himself both the judicial and executive powers¹⁵. Here again is a confirmation of the Hindu classical

¹³ *The Mrichakatika*, Act 3. (Translated by A.W. Ryder).

¹⁴ *Mudrarakshasa*, Act 1. (Translated by R. S. Pandit).

¹⁵ R. S. Pandit, *Commentary on Mudrarakshasa*.

theory according to which the royal sceptre symbolized the rod of punishment. The stability of administration in the Imperial Gupta Period may in reality be ascribed to the efficiency of law-enforcing agencies, as reflected in the creation of a superior cadre of officers bearing the impressive names of *Dandanayaka* and *Mahadandanayaka*. Sir John Marshall and Prof. D. R. Bhandarkar are among the noted authorities who considered these dignitaries as purely police officials.

Although Fa-hien mentions the comparative freedom of movement in the Gupta Empire, it is more than likely that the system established in the Mauryan Age had continued with varying degrees of efficiency in the centuries immediately after Christ. In Act 5 of *Mudrarakshasa*, Siddartha ignores the advice of the monk in attempting to steal through the city without an authorization and is in consequence arrested by the officers of the '*Gulmasthana*' (watch and ward Station)¹⁷. According to R. S. Pandit, the word '*Sthana*' survives through Prakrit '*Thana*' which occurs in the play in the modern Thana—police station¹⁸. The play is also noteworthy for the ingenious manner in which the case against Rakshasa is proved by documentary evidence. Overwhelmed by the mass of evidence arrayed against him, the innocent minister might well despair :

“That the letter is not mine is no answer

Since mine is the seal.....

Thus I would rather yield herein

As the better way than vouch

Inelegant reply”¹⁹.

Through the inscriptions relating to the age of Harsha and Hiuen Tsang's account of criminal justice, it is safe to assume that the mechanism of the government under Harsha was in conformity with the Gupta organisation and the cruel punishments of the Mauryan Age continued in the seventh century. But we have practically little knowledge of law-enforcement and preventive agencies, although Hiuen Tsang himself was robbed on the high-ways a number of times. It is also inexplicable that Bana's *Harsha Charita* which devotes an

¹⁶ *Ibid.*

¹⁷ *Mudrarakshasa*, Act 5, Sec. 1

¹⁸ R. S. Pandit, *Commentary on Mudrarakshasa*.

¹⁹ *Mudrarakshasa*, Act 5, Sec. 4

entire chapter on Sthaneswar is irritatingly silent on the police organisation²⁰.

Even these scraps of information are lost to us during the political interregnum between the death of Harsha (650 A. D.) and the rise of Muhammadan power in North India, and we have perforce to turn to the more stable kingdoms of the south to trace the development of social and administrative institutions, some of which have survived in their content even today. The most important of these is the strengthening of the earlier principle that the enforcement of criminal justice should be vested in the village communities whose organisation attained an acme of perfection under the Cholas. The system of village autonomy with *Sabhas* and their committees existed in an embryonic stage under the Pallavas and the Pandyas in the eighth and ninth centuries, but it is under the Chola administration that the full development and adoption of law enforcement through village organisations could be achieved. The committees did this with the assistance of paid village officials who detected crime, while the *Nyayattars* (Judicial Committees) pronounced the innocence or guilt of the accused, leaving the question of punishment to royal officers or a special panel of judges. Rightly does Prof. Nilakanta Sastri say in his monumental work on the Cholas : "Between an able bureaucracy and the active local assemblies which in various ways fostered a live sense of citizenship, there was attained a high standard of administrative efficiency and purity"²¹. Cattle-lifting, theft and robbery were common crimes and some inscriptions as well as the epic of *Silapathikaram* show that on the principle of setting a thief to catch a thief, individuals who had intimate knowledge of the criminal classes and their techniques were appointed as watchmen. Of considerable importance is a record from *Uttipakkam* which furnishes a detailed account of the efforts of the state to apprehend a desperate band of dacoits and murderers led by Alkondavalli and Pambanayan in the latter part of the thirteenth century. When their murderous excursions in the countryside were brought to the notice of Prince Pottapi Araiyan, the latter

²⁰ Cowell & Thomas, *The Harsha Charita of Bana* (1897).

²¹ K. A. Nilakanta Sastri, *The Cholas*.

ordered the Chief Valluvanadu, Alvan Irungolar and a detachment of Malayala soldiers to arrest the criminals. The force was, however, totally inadequate and suffered badly at the hands of the intrepid dacoits. Even the satisfaction of having two of its main leaders arrested was short lived, for, in a surprise attack, the entire guard was killed and the prisoners were liberated while being escorted to the capital. Under the orders of the king, the criminals were ultimately captured by the people themselves, proving the need for public cooperation in the apprehension of evil-doers, irrespective of the strength of government agencies²².

In contrast to the earlier Hindu kingdoms, the organisation of the police received considerable attention in the medieval Vijayanagar empire, presumably due to the influence of neighbouring Muslim states. A noteworthy feature of the police force was its division into two categories—one maintained by the State and the other by the people. In the capital itself there was a special police force whose business it was, according to Abdul Razak, "to acquaint themselves with all the events and accidents that happen within the seven walls and recover everything that is lost, or that may be abstracted by theft ; otherwise they are fined"²³. The system of penalizing police officials for the incidence of anti-social behaviour is confirmed by Nuniz, and was extended even to the Prefect who can be identified with the Police Commissioner in modern times.²⁴. In the days of Devaraya II the commissioner had his office opposite the mint and commanded a force of 12,000 policemen who were paid 30 *panams* each per month.²⁵ The city police was famous for its achievements in the field of detection, and the exploits of Penugonda Yiranna are mentioned in the Lepakshi inscriptions.²⁶. In the provinces, the *Nayakas* who were responsible for the preservation of order in their jurisdictions, appointed *Kavalghars* generally drawn from the criminal tribes

²² Justice P. N. Ramaswami, *Magisterial & Police Guide*, Vol 1.

²³ B. A. Salatore, *Social and Political Life in the Vijayanagar Empire*.

²⁴ T. V. Mahalingam, *Administration & Social life under Vijayanagar*.

²⁵ *Ibid*.

²⁶ P. N. Ramaswami, *Magisterial & Police Guide Vol. I*.

to prevent thefts from their own castemen.²⁷ They in turn appointed the village *Talaiyaries* who were liable to be punished if they did not discharge their duties properly. In some parts of the empire the *Kavalghars* were appointed by the villagers who sold the right of policing (Pandikaval). Sometimes the *Kaval* rights were granted in recognition of services rendered²⁸. Thus it was largely the people themselves who made arrangements to prevent social disorder.

Contrasted with the paucity of information on the administration of criminal justice in ancient India, we are in a happier position in tracing the development of the police system under the Sultanates from the narratives of Muslim chroniclers who had a high sense of historical accuracy and orderliness. The police duties were performed by the Kotwal whose office was most identical with that of the *Sahabi Shurtah* in the Caliphate. The Kotwal in the Sultanate was assisted by the local inhabitants and a picked civil force which patrolled the thoroughfares and guarded the city. He maintained a register of full particulars of all the inhabitants and kept himself well-informed of their activities and movements. He acted as a committing magistrate and administered the rural areas also, sometimes in the dual capacity of a military commander of a fort. Some of the normal functions exercised by the police in modern times, however, were performed by another official—the *Muhatasib*. The *Muhatasib* was in reality the censor of public morals. He too had a small civil force under his command. He was expected to suppress illegal practices and maintain a high code of conduct of public behaviour. Among the duties he had to perform were control of gaming, sale of liquor, and prevention of indecency. He was essentially an executive officer as distinct from the *quadi*, whose powers were purely judicial. It is interesting to note that exploitation of human labour and cruelty to animals came under his purview, as well as the care of orphans and foundlings. In short, the *muhatasib* was an important official combining in himself police and quasi-judicial duties. A feature of the system under the Sultans was that a single individual held simultaneously

²⁷ K. A. Nilakanta Sastri, *Further Sources of Vijayanagara History*.

²⁸ T. V. Mahalingam, *Administration and Social Life Under Vijayanagar*.

the offices of Kotwal and Muhatasib both being under the control of the '*Amir-i-dad*'. Although these innovations did not modify the indigenous principle of relying on the villages for ensuring the security of person and property, there is no justification for the sweeping statement of J. C. Curry "that not until Mughal times do we see anything like a police organisation."²⁹

We gather a clear picture of the police organisation during the Mughal times from Abul Fazl's '*Ain-i-Akbari*'. It furnishes a detailed account of the duties of the Kotwal who corresponds to the modern Police Commissioner and whose name survives even today in many big cities. He was responsible for watch and ward duties in the city and the control of social evils like prostitution, distillation of liquor, and regulation of public gatherings. He had under his control a regular staff of watchmen to patrol the streets at night and a set of paid informers to keep him in the know of all developments. It is interesting to note that the menace of pick-pockets and sneak thieves was considerable, and the Kotwal made adequate arrangements at all public gatherings to prevent their activities. The Kotwal was an important official who attended the Emperor's *Durbar* regularly and was known for his efficiency and at times for savage barbarity in dealing with public disorders.

Apart from *Ain-i-Akbari*, other valuable sources of information on the police organisation are the *Mirat-i-Ahmadi* written in 1748 by Ali Mahammad Khan and Manucci's *Storia do Mogor*. In a *sanad* of appointment the Kotwal was urged to ensure that no theft occurred in the city and that the citizens went about their trades in peace and security. According to Manucci the Kotwal was subordinate to the *Kazi* but commanded an efficient body of men. "Under his orders there is a considerable body of cavalry and a great number of foot-soldiers, who, in a sort of way go the rounds"³⁰. All the sources, however, confirm a high degree of efficiency of the police in towns compared to the loose control exercised in the rural areas under the overall supervision of the *Fauzdar*.

²⁹ J. C. Curry, *The Indian Police*, Faber & Faber Ltd.

³⁰ Jadunath Sarkar, *Mughal Administration*.

Broadly speaking, no code of civil or criminal law existed during the Mughal period, but the emperor was the final appellate authority in all matters of litigation and his judicial representative was the Kazi. The executive authority on the other hand was the Fauzdar or the Kotwal (police commissioner) who assisted him to arrive at correct decisions according to the Koranic Law. A certain amount of confusion and overlapping occurs in respect of the duties of these two officials, but broadly the fauzdar was a rural executive authority with revenue and police functions with an extensive jurisdiction ; while the Kotwal was essentially a city officer. No systematic development of the police force actually took place under the Mughals since the administration in so far as maintenance of internal order was concerned, was inherently weak and incapable of improvement. The autocratic element in the administration which combined a number of powers and duties in single officers or agents of the government was an important factor in retarding the growth of an efficient police system covering both rural and urban areas. As correctly assessed by Curry, "the Mugal *Thanedars* were but editions *in petto* of the *Fauzdars*"³¹. They mainly concerned themselves with keeping peace and preventing turbulence, but detection and prevention of ordinary crime was left entirely to the village agencies without an adequate element of supervision. As Jadunath Sarkar says : "the policing of the vast rural area was left to the locality ; it was done by the local *chaukidars* who were servants of the village community and maintained by the villagers themselves out of the village land...There was no doubt a government agent there viz. the *Fauzdar* ; but his jurisdiction was too large to attempt the supervision of the police of all the villages in that region."³² And finally, the imperfections of the Mughal judicial system and the intolerable degree of corruption which characterised it had their own reaction on the police.

The dissolution of the Mughal empire was the signal for wide-spread anarchy and total breakdown of law and order. "In the midst of arms, the laws are silent," a proverb says, and

³¹ J. C. Curry, *The Indian Police*.

the Marathas proved it by their periodic forages of murder and pillage throughout the length and breadth of the land. The dislocation in civic life due to war, pestilence, famine, crime and governmental oppression reached a new high and the extent of failure of law enforcement can be gauged by the callous irresponsibility of Raguji, one of the Maratha governors who was reported to have said when a complaint of murder was made : "Why trouble me ? If the man has murdered one of you, you can take his life yourselves, can't you, without troubling me ?"³³. It was in this context of political confusion, anarchy, total breakdown of administrative systems and successive waves of crime and violence, that the British took over the reins of administration by gradual stages and began to evolve some order out of the prevailing chaos. The process was necessarily slow and beset with insurmountable difficulties. The initial experiments naturally met with failure. As Curry says, "the history of the police in British India for the century prior to 1860 was, as a part of the general administration, that of a long series of experiments, often of unsuccessful experiments"³⁴.

The first of these experiments was made in the Presidency town of Bombay in 1672 when an irregular body of militia was formed to perform watch and ward duties, but it was not till 1779 that it could be properly organised under a chief executive police officer. The prevailing conditions of disorder and insecurity in the country first drew the attention of Warren Hastings. He thought in terms of reviving the Mughal system of *Fauzdars* depending to a greater extent on the landowner to assist the state in the prevention and detection of crime. The experiment did not succeed in the changed conditions of the eighteenth century, and the arrangements were finally withdrawn in 1781. Cornwallis abolished the Zamindars who had heretofore been responsible for the maintenance of Thanedars and police establishments and appointed in their stead District or Zillah judges with full control over the police. Each district was divided into convenient jurisdictions under *Darogahs* who commanded

³³ P. N. Ramaswami, *Magisterial & Police Guide*, Vol. I.

³⁴ J. C. Curry, *The Indian Police*.

bodies of salaried police and also sought the assistance of the village watchman. Although these reforms were initiated with the best of intentions, the *Darogahs* turned quickly into petty tyrants due to lack of supervision. Corruption and social tyranny marked their administration and the office of the *Darogah* became the most sought after position under the early British.

The successors of Cornwallis sought to remedy the evils which began to emerge from the unsuitable system against a background of rising tide of crime. In Bombay the Grand Jury of 1793 pressed for the reorganisation of the personnel under a Superintendent of Police. Wellesley and Bentinck appointed commissions to enquire into police affairs in 1801 and 1806, respectively. In Madras a special committee formed on the direct intervention of the Court of Directors attempted to revive the village police as a vigorous and effective organisation in place of the *Darogah* system which had fallen into disrepute. The most important outcome of the special committee's recommendations, however, was the re-transfer of the control over the police from the Zillah Judge to the Collector who had comparatively greater knowledge of local conditions. Similar developments were inevitable in other provinces of the East India Company. In Bengal, however, the process was modified due to historical reasons. A Superintendent of Police was appointed in 1808 over the divisions of Calcutta, Dacca and Murshidabad to facilitate effective campaigns against dacoit gangs. The entrustment of concurrent criminal jurisdiction with District magistrates was an effective and wholesome feature of the system which was later extended to Patna, Benares and Bareilly. But in 1829, the control over the police was transferred to the newly constituted Divisional Commissioners, and the change revived the pernicious tyranny of the *Darogahs* in an intensified degree. The system was once again reviewed in the light of past experience, and the committee formed by Sir Thomas Metcalfe in 1838 came to the logical conclusion that the failure of the police systems tried through all the

³⁵ Meadows Taylor, *Confessions of a Thug*.

³⁶ Muzumdar.

years was due, either directly or indirectly, to lack of supervision.

All these experiments have to be sympathetically viewed in the light of deplorable conditions of law and order prevalent throughout the vast sub-continent in the first half of the nineteenth century. Evils of immense magnitude like Thuggee, Suttee, infanticide, human sacrifice, rooted deeply in religion and social custom, could only be eradicated with difficulty by bands of inspired officers and progressive administrators.

Confused by the successive failures to forge an effective instrument of law-enforcement, the early British learnt, from their experience in putting down the Thugs and other anti-social forces, that in the maintenance of law and order, in India at any rate, extraordinary situations called for full-blooded measures. The early police familiarly known as '*barquandazi*' which had grown partly from the *darogah* system and from the subordinate revenue establishments, were totally inadequate to perform their duties due to their inherent weaknesses and lack of supervision. The solution was ultimately found in Sind where Sir Charles Napier had constituted a police force on the annexation of the province in 1847 on the lines of the Royal Irish Constabulary. The example was followed by Sir John Clerk, Governor of Bombay, who in 1858 appointed a Superintendent of Police in every district assisted by a number of Indian officers over whom the over all control was exercised by the provincial government. Similar changes were effected in other states, particularly in Oudh and Madras. Thus, by 1860 the varied experiences of different provinces in the organisation of the police could be pooled for attempting a solution on an All-India basis. This became imperative with the annexation of the Punjab and the far-reaching constitutional changes after the Mutiny.³⁷ In August 1860 the Government of India appointed a commission to enquire into the whole question of police administration in British India.

The Police Act of 1861 which was the result of the labours of the above commission is the base on which the

³⁷ J. C. Curry, *The Indian Police*.

³⁸ Cambridge History of India.

modern police structure in India stands today. The appointment of Inspectors-General of Police responsible for maintenance of peace in the provinces was its most significant contribution doing away, once and for all, with vague and ineffective supervision by unconnected authorities. But the act did not forsake the ancient system of village police ; instead, it visualised more effective supervision over them by the Superintendent of Police so that valuable contacts between the police and the people were not lost.

The police in India from ancient times have passed through many vicissitudes depending upon the alternating cycles of order and chaos in the country. Its development was haphazard, halting and influenced throughout by political and social considerations. All the same, a most gratifying feature of its development was the continuous reliance on the people in the vital tasks of social defence. The failures were not due to any inherent defect in the principle, but to lack of imagination on the part of the administrators to improve the machinery to suit the changing needs of the times. They stressed the basic truth that, whatever may be the degree of technical advance and organisational efficiency, no police force can afford to act in isolation from the people whom it wishes to protect.

17

Crime Prevention

A sensible programme of crime prevention is closely linked with the treatment of the criminal in which the prison plays an important role. Whatever may be the views of modern penologists regarding the utility of the prison system, it has to be conceded that it remains today as the only means of segregating the habitual criminal whose continuance at liberty is fraught with peril to society. One may sympathize with the criminal as the creature of heredity and environment, and as a victim of circumstances over which he has little or no control, one may even accept the view that he is in the nature of a sick person who needs 'treatment' and not punishment, but it must be recognized that in the present context, society is not prepared to go all the way with penologists in eliminating the prison altogether.

At the other end of this complex human problem is the policeman whose concepts of crime prevention do not go beyond conventional patterns. The longer a criminal is inside the prison, the better ; he saves so much of trouble and worry. Recidivism, as it comes into continuous conflict with the policeman, leaves its ugly scars on him too. It turns him into an unbeliever in the processes of reformation. This attitude naturally influences him in his work ; he loses that element of personal kindness which is essential. His subsequent relationship with the criminal is turned into one of deadly enmity of an impersonal nature. The problem of crime prevention in India is, therefore, one of striking a golden mean between these extreme viewpoints. While social protection means the apprehension and conviction of criminals, the practical possibilities of any preventive programmes should not be neglected. However, any attempt to apply theories

without reference to the education and the social preparedness of the community, is apt to be futile.

In the first instance, the very idea of total elimination of crime is unreal. When it is difficult to define crime or explain it coherently, it is equally difficult to find ways and means of controlling it. A crimeless society is Ramrajya, where there is no fear and no scope for the inter-play of such vile passions as greed, covetousness, rage, jealousy, and other primordial passions. One visualizes a state where there is no poverty, where even the seasons behave, and men and women live ordered, if drab and uninteresting, lives. Life goes on in even tenor, without a discordant voice to hear. This is our concept of Ramrajya—the Kingdom of Heaven on earth, a society where crime cannot breed. And yet, even as we speak of this concept, we read that the very king whose name is cherished as a symbol of perfection in social organization, was himself a victim of a most heinous crime—the abduction of his wife and her incarceration for many months. The legend is told how the great king Rama had to fight bitter battles to punish the wrong-doer and recover his own. No doubt, the epic of Ramayana has greater spiritual significance than this reference to the problems of crime and punishment. It has been merely touched upon to show that when criminologists make revolutionary suggestions to eliminate the prison and reorientate the concepts of punishment, they are merely expressing their continuous search for an ideal.

All the same, no progress can be possible if one were to take a cynical attitude on grounds of practicability. The fact that we have travelled long in the concepts of crime and punishment is by itself an eloquent testimony to the influence of modern penological thought. The humanization of punishment and the redemption of some of the pernicious features of the old prison systems have not affected the incidence of crime adversely. On the other hand, we find a distinct trend towards accepting, partially at least, some of the theories of the present-day criminologists, admitting the failure of old methods which have been tried for many ages.

The problem of crime control is inextricably linked with the concept of punishment. That punishment is no longer retributive is generally accepted, although public agitation and

demand for the apprehension of the guilty, verging at times on mass hysteria, can be viewed in the light of acute forms of social vengeance. There then remain the elements of deterrence and reformation. Modern penology is inclined to belittle the importance of deterrence and lay greater stress on the reformatory nature of punishment. They argue that mere severity in punishment had never reduced criminality to any marked degree ; and the argument in favour of deterrence cannot be "squared logically with the doctrine of the free moral agent, upon which the whole notion of punishment is based"¹. They also argue that it is not fair to punish one for the sake of deterring others. However logical the above may appear, we have to recognize the fact that there is always a class of persons who are on the watch for the relaxation of social controls to give free play to their ambitions. There is indeed much truth in the oft-repeated prescription from Manu's *Dandaneeti* : "Dread of the rod alone restrains the bad, controls the good, and makes a nation strong... The king must punish fearlessly ; else the strong would oppress the weak"²..... It is the fear of punishment, of the prison, and the grave risk of forfeiture of life which restrain sections of the population from criminality. The line between normal and abnormal behaviour is always thin, and much depends upon the restraining influences. We may question the propriety of a particular law, we may even argue that the continuance of laws is the greatest contributor to crime—for, if there were no laws, there would be no crimes,—but any attempt to change the concepts of punishment to a degree of unrecognizability can only mean disaster.

Even the most ardent supporters of the new theories have not suggested that the institution of the police should be abolished. They have no doubt criticized the police, their inherent defects, and suggested possible channels in which their activities could be constructively directed. They have recognized the necessity for the police as a social institution and their authority as the only effective guarantee of protection against crime. But what part can the policeman play if he is

¹ Barners and Teeters, *New Horizons in Criminology*.

² Quoted from S. M. Edwardes, *Crime in India*.

divested of his authority, if at every stage he is painted in brutal pigments of tyranny and oppression? Whatever may be the treatment suggested for the criminal, it is clear that control of delinquency rests mainly on the ability of the police in the apprehension and the conviction of criminals.

It is obvious that any Utopian ideas of removing the elements of deterrence from punishment, will not only cut into the roots of the police organization, but shake the very foundations of established order. When the regulation of the conduct of a large number of men is desired, it follows that there should be some kind of supervision, with an authority behind it. True, the conventional methods of reducing crime have failed in respect of the habitual and the recidivist, but there are large sections of people who possess some degree of criminal potential and who are restrained from crime from the fear of apprehension. Instances of disparity in behaviour depending upon the absence or the presence of the police can be narrated at length. Such disparity depends on the character of the people and the respect in which the policeman is held. During the wide-spread disturbances in connection with the Andhra Agitation in the year 1953, the reluctance of the police to take effective action against unruly crowds resulted in the looting of Vijayawada Railway Station and consequent loss of property which was variously estimated as running into crores of rupees. Thousands of people who were normal and respectable, and who would have never dreamed of committing an offence, participated in an orgy of violence and carried away from the goods yards whatever they could lay their hands on. Here is an outstanding example of crime on a large scale which cannot be explained by any formula or theory, and for which there is no other rational explanation except that the fear of apprehension was absent. Such instances can be multiplied endlessly. Ticketless travel on the railways, student indiscipline, un-certain behaviour of large gatherings and tax evasions are some of the manifestations of lack of restraint.

In the present context, therefore, all crime prevention programmes, must continue to be based on a realistic combination of both the elements of deterrence and reformation. While agreeing with Sutherland and Cressey "that the

development of habits and attitudes by education and by spreading of tradition by the contacts and the interaction between those who appreciate the values and those who do not, is probably a more efficient method''³ than normal punishment, we can hardly afford to create a vacuum while the laudable experiments are made.

And so we have to revert to the former theme that, despite the new lines of thinking, it is on the police that the main brunt of reducing crime devolves. The man on the beat is still a force to reckon with. His knowledge of local conditions, of the smouldering passions, of the advent of a stranger helps him greatly in the control of crime. He has the means to know, and put down, the sordid brothel and the gaming den which are breeding grounds of vice. He comes across the derelict and the near-delinquent whom he can assist to find a way of living. In his own way, he can do much to control traditional crime and prevent communal orgies, political clashes, and long-standing feuds. And yet today, if we are confronted with the unpleasant truth that the efforts of the police do not meet with a larger measure of success, it must be admittedly due to the inherent defects in the police organization, individual lapses, defects and delays in the court system, public apathy, and the absence of follow-up policies which makes all police efforts futile.

The role of the police in the field of delinquency control is an obvious and direct one, and yet it can only be successful to a limited degree. Society has not yet vested in them the responsibility for the reformation of the criminal as a further means of checking crime. Even as regards first offenders, the policeman has little to do with the conditions which contribute to crime. Thus the approach of the policeman is purely a legal one. His duties coincide with the legal definition of crime. The concept that the policeman should take an intelligent and sociological interest in the criminal is still new and almost incomprehensible to the majority of the policemen themselves.

Crime is essentially a 'question of time and geography'⁴ and depends upon the penal code. The prevailing state of social

³ Sutherland and Cressey, *Principles of Criminology*.

⁴ Barnes & Teeters, *New Horizons in criminology*.

evolution defines the seriousness of a particular crime, and instances are not wanting where crimes once considered sufficiently serious to merit the extreme penalty have today degenerated into trivial offences. On the other hand, the changing pattern of society with its changing values shifts the emphasis to newer fields of activity. Even murder loses its heinousness when compared to the anti-social activities of black marketeers and unscrupulous businessmen who do not hesitate to adulterate food and exploit the dire needs of people for their own profit. One has therefore to concede that a "decidedly new pattern of thought regarding various anti-social acts must develop and the old notions nurtured by press, radio, and screen about murder and the quaint crimes of petty robbery, pocket picking and burglary—those aimed at one person and one family—must be overhauled or changed."⁵ Even if we cannot go all the way suggested by the criminologists, a beginning has to be made at least with reference to the more trivial offences which have no other effect but to irritate the average citizen.

Our efforts to control traditional crime must be directed in two channels ; one, in checking the habitual criminal through the processes of segregation and reformation ; and secondly by the obvious method of forestalling crime carried out through preliminary contacts with potential criminals and by affording the necessary treatment before they walk into the jaws of crime. This has to be done through a policy of removing the environmental factors which contribute to crime.

The problem of the habitual offender bristles with innumerable difficulties, even in countries where such comprehensive measures as preventive detention are adopted in an effort to segregate the persistent offender over long periods so that constructive programmes of reformation can be applied to them. In India we are at a great disadvantage in the absence of effective measures to check the inroads of confirmed criminals and due to oversensitiveness to connected suggestions as bordering on constitutional improprieties. The difficulties are further accentuated by the existence of de-notified tribes who have been deeply nursed in crime. Their isolation

⁵ *Ibid.*

from the law-abiding sections of the population and the absence of refreshing influences also help the formation of the habit of criminal adventurism. The caste instinct, the feeling of pride of achievement and loyalty to former companions hold the confirmed criminal in a vicious grip. These indeed are the factors which make up the personality of a member of the ex-criminal tribe. Individual psychology has little to do with it.

Considering that the only method of reformation available in India is incarceration, even ardent champions of prison cannot claim that it serves its purpose fully. There is neither individualization of the criminal nor adequate facilities for his 'treatment'. The subject of prison reform is of interest in so far as it plays an important role in the reformation of the criminal. The criminologist condemns the prison on the ground that "true reformation cannot flourish in a punitive set-up"⁶. He suggests as substitutes for imprisonment the system of probation, indemnity for the crime, psychiatric service and other miscellaneous methods like imposing fines according to capacity to pay and abrogation of certain rights. Apart from probation, the beginnings of which have been made in all the states in India, it is needless to discuss the other measures ; their value in crime prevention can at best be very limited or impracticable. Even in regard to probation which has been acclaimed as the future line of penal action, lack of trained personnel and necessary facilities have shown that its success can only be partial.

The object of this discussion is not to belittle the importance of probation or other methods of reformation of the criminal. They will undoubtedly play noteworthy roles in future and help in the control of crime, but it is necessary to bear in mind that failures in major methods of reformation have to be anticipated, and these failures may be due to "the inefficiency of the theories of reformation which are used, or they may be due to the inability to apply the theories when adequate facilities and personnel are not available"⁷.

We have so far discussed the conventional methods of crime prevention which are entrusted to governmental agencies like

⁶ Barnes & Teeters, *New Horizons in Criminology*.

⁷ *Ibid.*

the police, the prison and the probation departments. These at best attempt to tackle the problem once the delinquency comes to the surface. The greatest emphasis, however, has to be laid on the sociological approach which means the development of pre-delinquent contacts with a view to spot out criminal tendencies and prevent their growth on the one hand, and elimination, in a larger sphere, of the factors favourable to crime on the other. In regard to the former, almost all the American endeavours are crystallized in the establishment of child guidance clinics and the visiting teacher movement. Both these institutions suffer from certain inherent defects. The clinics have not really served the purpose for which they were intended for the simple reason that the utmost they could do was to select children with abnormal traits, but could do little to initiate treatment. The failure of the clinics is also ascribed to the fact that "the problem is not confined to the organism of the child, but involves wider social relationships in the family, the neighbourhood, the institutions and the general welfare"⁸.

On the same lines is the visiting teacher system which means that an organization of visiting teachers should have the facilities to watch the development of character of a number of school children. It is based on the principle that the normal teacher entrusted with the care of hundreds of children does not have the necessary opportunities to know the trends of character building in the institution. The visiting system contemplates that the teacher should have up-to-date information on the behaviour problems of the abnormal ; and on the strength of this knowledge, make his own investigations regarding home conditions, neighbourhood factors etc. so that he could help children with abnormal behaviour difficulties.

Neither the child guidance clinic nor the visiting teacher can be of practical utility in India today. In the final analysis, delinquency control on a sociological scale has necessarily to be entrusted to the community itself, for there can be no greater deterrent to anti-social behaviour than crystallized public attitudes. Among the experiments conducted

⁸ Barnes & Teeters, *New Horizons in criminology*.

on the above principle are the 'Chicago Area Projects' which require that residents in high-delinquency areas organize themselves into groups with a view to reduce crime incidence. This they strive to achieve through the medium of Boys Clubs, recreational facilities and summer camps for the young, in an endeavour to turn youthful waywardness into channels of constructive and 'meaningful activity'.⁹ These groups have an added advantage that, if properly organized, there is scope for general modification of public attitudes of indifference and apathy to crime as it affects society. Sutherland and Cressey feel that any measure which can achieve this would be a great asset in the larger interests of crime control. This is particularly true in the case of India where civic consciousness is poor and the general impression is that crime and criminals are the sole concern of the police.

It is this absence of an enlightened interest and active participation in the sociological control of delinquency which makes it imperative that a beginning is made at least now. The village organizations which were established in the early thirties in some states (notably in Madras and Andhra Pradesh where they are called village vigilance committees) have in them the elements which can be used in the bigger and more comprehensive sphere of crime prevention. They were originally intended as a second line of defence against the depredations of criminals in crime centres and high delinquency areas. The organization of the village committee is simple ; it consists of select village elders who are expected to keep an eye on local bad hats and check the movements of suspicious strangers. In the past, the respect in which the elders were held and the authority they wielded in community life were mainly responsible for creditable results in crime control. Indeed the record of some of the village vigilance committees in some districts was extremely gratifying. Innumerable instances of outstanding service in preventing daring crimes and in assisting the police in detecting them after commission have been reported. However, the scope of the committees in

⁹ *Ibid.*

their present form is limited since all the emphasis is laid on known criminals and the committees are generally used in fits and starts. In many cases the committees have degenerated into groups of police informants and fallen into disrepute. In others, they became merely symbolic examples of the elusive public-police co-operation and existed only on paper. What is disconcerting is that the work, the objectives and the scope of these committees were not gradually extended to cover the more important aspects of crime prevention.

One of the reasons for the gradual neglect of the village organizations appears to be their embarrassing role in the context of political affiliations, factions and group rivalries. Yet, with all their defects in the present stage of development of civic consciousness and degree of education and enlightenment in the rural areas, the committees can be re-orientated to suit the needs of the future. If sufficient care is taken in the selection of the members, and in educating them in the various aspects of abnormal behaviour and juvenile delinquency, they can be converted into useful agencies to mould the character of the growing generations in rural areas. It is of course not intended that the committees should perform the complex duties of child guidance clinics, welfare boards or co-ordinating councils to integrate the work of such agencies as the police, the school, or the social welfare department. But they can at least help in the creation of a "consistent ethical front".¹⁰ At no time is the need for creating respect for law and law observance keener than today. Innumerable manifestations of antisocial behaviour commencing with the erring child and the indisciplined student and extending to virulent forms of crime and open defiance of authority have resulted in human suffering and bitterness beyond description. In terms of costs, the country has lost enormously. Consequently, one of the most essential forms of crime prevention is the creation of respect for law, and the insistence on the observance of law. This can be achieved only through a slow process of character building from the earliest stages. In this period of transition, the greatest need of India is the creation of a strong moral fibre through its

¹⁰ Walter Reckless, *The Crime Problem*.

length and breadth. It is to this vital task that the simple village committees and similar bodies in towns and cities should apply themselves with sincerity. The problem that faces us is not one of immediate detection of crime ; it is one of the future, of the long range since the nature and character of crime in any country reflects in some measure the emotional instability of the people. The expansion and revitalization of these simple village organizations can really be the most potent factor in the control and the prevention of crime on a sociological scale in the years to come.

18

The Role of the Police

To a large number of people, the police appear merely in the role of an impersonal agency to suppress disorder and crime. They assume that, in achieving these objects, the police are at times forced to adopt doubtful codes of morality ; and in consequence, they find it difficult to associate with the police a progressive and enlightened role. To them the police is no more than an army, trained and equipped in the use of lethal weapons, and kept in fighting trim to quell riots and prevent disorder.

The nature of the police organization prior to 1947 and the unpopular duties it had perforce to discharge in the suppression of civil liberties and national aspirations, were only additional factors which surrounded the police in India in an atmosphere of deep suspicion and prejudice. Even in countries where civic consciousness and social responsibility are well-developed, it is doubtful to what extent the sociological nature of their duties is clearly understood. To the average citizen the policeman is the visible symbol of established order. The preservation of peace in the land, and protection, in a physical sense of the security of person and property, are all that matter. And this is considered accomplished so long as riots are suppressed and criminals are apprehended and convicted. What, however, is generally overlooked is the strategic position of the police with reference to causation and prevention of crime, and the treatment of the criminal as an important part of social defence.

Is the police in India capable of meeting the new challenge of the times ? Is it intellectually adequate to understand the implications of the new principles of criminology which will inevitably influence our approach to the eternal problems of crime and punishment ? Is its character moulded by a

sincere spirit of service and genuine sympathy for the handicapped and the under-privileged, or, is still dominated by rusty concepts of petty tyranny ?

These are the questions which the Indian Police will be called upon to answer daily in the routine tasks which confront them. The Indian Police has an excellent record of discipline and gallantry, of resoluteness in face of seemingly insurmountable difficulties, and valour and courage of the highest order. The fourteen years of independence have brought to the fore-front, time and again, instances of heroism and devotion to duty in the performance of their hazardous duties. The policeman treks his lonely beat in such far-flung and difficult terrains of the country as the snows of the Himalayas, the desert wastes of Rajasthan, the treacherous ravines of the Chambal, the flooded banks of the Brahmaputra and the Godaveri, the wild forests of Assam, the tribal tracts of the Vindhyas and the sandy shores of Kerala. Indifferent to personal safety, the policeman has intervened repeatedly to restore order in communal riots, political clashes, and blood feuds. The policeman is ever on the battle-field waging a relentless war against evil and the forces of disorder and disruption. He faces personal risk daily, for, when he dons his uniform, he does not know when an emergency may arise. In the eventful years after Independence, it is gratifying to know that the policeman has not faltered in his duty. He faced his difficult tasks cheerfully and made willing sacrifices. The annual statistics of police officers killed or injured in the discharge of their duties are eloquent testimony to their gallant record of the service. On October 21, 1959, ten brave policemen laid down their lives in resisting the ruthlessness and superiority of arms of a powerful neighbour State. On 12th March 1958, Shri Tarachand, a Superintendent of Police, and constable Khuman Singh died in a dawn-to-dusk battle with the notorious dacoit Kalyansingh and his followers. On June 17, 1955, the Gaya District Police attempted to surround a gang of dacoits and forestall them, but in the process lost the life of a brave constable who did not flinch from grappling with an armed bandit. These instances can be multiplied in hundreds. Policemen all over the country are killed and injured not only in gruelling battles with dacoits and marauders which make front page news, but in ordinary

routine tasks as for example : crime detection, crowd control, prohibition enforcement, suppression of communal and political disturbances, and even such routine duty as traffic control. In a single year, 1956, 72 police officers were killed and 2272 injured in the discharge of their duties¹. Commenting on the record of sacrifice and gallantry, the Indian police Journal wrote appropriately : "We are sure that when the history of the present times is written, there will be some mention of the fact that the development in India could progress because law and order was established.....by a police force that was small in comparison with the task entrusted to it, but which was composed of men who were dedicated to the ideals of service, and even though maligned sometimes, did their work with enthusiasm and with a love and regard for the people which was strong and selfless"².

The loyalty, the courage, and the sense of devotion to duty of the Indian Police are unquestioned. The force has stood the test of time and political upheaval. It has, through a maze of calumny and prejudice, performed commendable tasks in maintaining law and order under trying conditions ; it has adjusted itself within the limited scope of organization to the new concepts of democracy ; and waged a relentless war against the criminal and anti-social elements who threatened individual and corporate liberty in the eventful years immediately following independence. In expressing uncertainty regarding its capacity to play a sociological role, therefore, it is not intended to decry the great services rendered by it to the country or to belittle its character which is intrinsically sound. All the same, the police in India, by the very nature of their inception and organization, by the long years of domination by an alien power, and by the limited resources placed at their disposal, have certain inherent defects which it would not be proper to ignore. Many years ago, R. B. Fosdick, a noted authority on American Police systems, said of them : "Nowhere in the world is there so great an anxiety to place the moral regulation of social affairs in the hands of the police, but nowhere are the police so incapable of carrying out such

¹ *The Indian Police Journal*, April, 1958.

² *Ibid.*

regulation.”³ This was in 1920. Thirty years later, the position, according to Barnes and Teeters, remains without any appreciable change.⁴

The above is the unsavoury picture of the police in the United States. In India, the distrust of the police is so heavily ingrained in the general public that the first inclination of the normal citizen is to keep away from the policeman as far as possible. The unfortunate impression even among educated and enlightened circles, is that the police are unscrupulous, ignorant, uncultured, and corrupt, and petty tyrants who persecute the innocent and have little respect for individual liberty. Now and then newspapers publish reports of police ‘zulum’ and highhandedness ; of third degree methods to extract confessions ; graft and corruption even at high levels ; miscarriage of justice due to partisanship, unethical practices, and defective investigations ; and above all, a lack of zeal and sincerity of purpose.

It would be futile to deny these charges totally as a few instances do come to the notice of the authorities from time to time. But we should not overlook the fact that the charges,—although some are not without basis—are generally exaggerated by the unwholesome publicity they attract. The man in the street takes no notice of the excellent work turned out daily by thousands of policemen in cities and villages. But once there is a slip or misbehaviour, he not only sits up and takes notice, but demands blood. This is perhaps necessary in as much as it acts as an effective restraint on a large body of men endowed with unlimited powers, but the unhealthy publicity which accompanies a few isolated cases of misbehaviour does add to the prejudice and antipathy towards the police.

If a careful analysis of the charges which are usually made against the police is made, it will be seen that some of the charges are not well-founded ; some are with a basis for which the police cannot be blamed ; and some others are the result of mistaken zeal. As against this background of suspicion and deep-rooted prejudice, the policeman stands alone and pathetic in his battle against crime. Of all services he alone

³ R. B. Fosdick, *American Police System*, 1920.

⁴ Barnes & Teeters, *New Horizons in criminology*.

comes closest to the people, yet remains the farthest. The conditions of service are difficult and hazardous. He is watched from every conceivable angle and judged quickly with reference to divergent motives. If a crime occurs and no arrest is made, he is dubbed inefficient ; if in his anxiety he makes a hasty arrest, he is accused of high-handedness and even base motives are imputed. If he keeps aloof, he is accused of the mentality of a haughty bureaucrat ; if he mixes well with the local population, allegations of partisanship are made. If he is patient, he is weak ; if energetic, tyrannical. All the time he is surrounded by suspicion, sullenness, and inexplicable hostility. The Damocles sword of anonymous and psuedonymous petitions hangs over him and creates a sense of uncertainty and fear, for it is the common experience of even the most honest and capable officers to have their reputations tarnished by the facile pens of the writers of anonymous letters.

The very nature of police work adds to the difficulties at every stage. Year after year, new laws are passed which the police are expected to enforce efficiently without corresponding increases in manpower or facilities, and without reference to practicability, and the degree of public awareness. More often than not the public are apathetic and indifferent. Thus the policeman lives in a complex and paradoxical world of make-believe. He is expected to live up to the highest ideals of protecting society, enforce laws, respect the liberty of the individual and follow the rigid limits of the Criminal Procedure Code which encompass him, and yet, he is judged harshly if he fails in his endeavours. He is forbidden by law to offer any inducement or exercise any pressure, or hold any threat in questioning a suspected criminal. And yet, it is common knowledge that unless the policeman secures a statement and gathers sufficient evidence to enable him to get a conviction the mere catching of the criminal leads him nowhere. In a recent instance, a lawyer who made serious allegations of use of third degree methods against the police in a case of theft he was defending, was equally angry with the police for 'not tackling effectively' a maid servant whom he accused of stealing some silver ware from his own house.

How does the law itself, which the policeman upholds by unremitting toil and sacrifices, treat him ? In answering this

question it must be regretfully admitted that the authors of the Criminal Procedure Code and the Indian Evidence Act have not disguised their deep distrust and prejudice against the Indian policeman. The Criminal Procedure Code lays down almost impossible rules regarding search, arrest and the recording of evidence by police officers. The Code prohibits under section 162 the taking of signatures of witnesses on their statements thus allowing scope for them to change their versions with impunity. All searches should be in the presence of reliable and 'respectable witnesses' of the locality. The presence of the investigating officer during the course of identification of persons or property is tabooed. These singular provisions lead at times to the investigating officers effacing themselves while the proceedings are conducted by two ignorant villagers. But more unhelpful than these requirements are the provisions of the Indian Evidence Act which stipulate that no statement of the accused as recorded by the police is admissible in law. We have therefore again the spectacle of a station officer running hither and thither for "first information" when the accused himself appears in the police station to confess a criminal act. One may explain these antique provisions as reflecting the anxiety of the law-makers to protect the innocent from the unscrupulousness and lack of character of the early policemen, but it is difficult to escape the impression that the law itself is the greatest promoter of distrust and suspicion of the police. In the course of a heated discussion which took place at the Police Science Congress, at Patna, many police officers pleaded for the removal of the 'canker' of Section 25 of the Evidence Act which created an impression that the police is a party in the investigation of criminal cases, and engendered a feeling of frustration. Shri K. K. Bannerjee, Retired Judge of the Patna High Court and Vice-Chancellor of the University of Bihar, conceded that as a result of Section 25 of the Evidence Act public opinion is generally formed that police officers are untrustworthy and therefore any statement made by an accused in the nature of incriminating matters should be totally ruled out. He said summing up the proceedings: "It looks rather strange that an admission made by an accused even before a sweeper will be admissible, but it will not be so when made before a high ranking police

officer like an Inspector General of police..... Imagine the assistance that a court will get in arriving at its conclusions if it can trust a police officer completely.”⁵

Eminent jurists are well aware of the demoralizing effects of these provisions of law which not only hamper the policeman in his normal day-to-day work, but continue to express doubts whether in the context of development of character of the force, it is not too premature to repose trust in the policeman. What is overlooked is that trust begets trust, and the policeman will automatically rise to the heights expected of him if he is given a fair chance. This is indeed a vicious circle which has to be cut through if the police have to develop a personality consistent with the vital role they have to play in the administration of criminal justice in the country.

While the above are some of the difficulties for which policemen are not responsible, some charges which are constantly made against them originate from inherent defects in the organizational set-up of the police. Inadequate education is a common feature of the police forces in India. A constable was considered on the same footing as a last grade menial in government service and his attainments were no higher than those of an unskilled labourer. This was so because the early British administrators who organized the police forces moulded it for the specific purpose of preventing disorder; the welfare tasks were merely incidental. Recruitment, therefore, was based purely on physical fitness and endurance. All else were subordinated to the above considerations. The conventional policeman is always fighting pitched battles with anti-social elements, grappling with criminals in hand-to-hand fights or displaying his excellent marksmanship against unruly mobs. The concept of associating with him vital social tasks is still a comparatively new and recent one, and it is therefore not surprising that the degree of enlightenment and the extent of education among the police forces are still unsatisfactory.

It must be conceded that the position has not improved much even today. A large percentage of constabulary in the majority of the States are, if not illiterate, still not sufficiently educated. During the past two decades attempts have been made to raise the educational standards of the recruits with

⁵ Proceedings of the Police Science Congress-Patna, 1960.

varying degrees of success. There are even among the police officers themselves people who look upon all reform with distrust and who feel that higher education and enlightenment may hamper the sense of discipline and efficiency. In the result, the lower ranks of the police are ill-equipped to carry out with imagination and understanding the tasks of social welfare which are implied in their duties, since they have to deal intelligently, with heterogeneous populations at all social and cultural levels, master the intricate provisions of law which fog even a lawyer, prosecute cases with dignity and poise, and keep abreast of the innumerable ramifications of scientific investigation. Yet, it is remarkable that with all these handicaps, the force acquits itself fairly well. When it fails, it is more the failure of the outmoded system than that of the individual members themselves.

A charge that is constantly made against the police is in regard to the prevalence of unethical practices. Instances of graft, and bribery which come to notice are inevitable in forces which comprise of large number of men, and to deny them would be merely avoiding an unpleasant aspect of police administration. On the other hand it is not generally realized that most of the allegations of corruption are made on the basis of hasty conclusions, hearsay, rumour and frustrated imputation by affected parties. For every case of genuine misbehaviour there are many baseless accusations, with the result that at times it becomes difficult to distinguish between truth and falsehood, and an atmosphere of general distrust and suspicion has been built around the police. The extent and degree of corruption among the police is difficult to decide, and in any case irrelevant. It is universally realized that honesty is an essential asset of the police, and its absence cuts at the very roots of its organisation. But we must also remember that corruption in the police is only an insignificant aspect of moral values among the people. As P.S. Muhar says, it is "merely an aspect of the larger problem of lack of integrity in the public services,"⁶ and therefore it is unfair to single out the police for criticism. All the same, by virtue of the strategic role of the police in society and the vital

⁶ P. S. Muhar, *Corruption in Police*.

contacts they have to develop with the public, failures and individual lapses contribute to public apathy and hostility.

In spite of extensive training courses organized for the police, solitary instances of highhandedness, overbearing behaviour, abuse of power, ill-treatment and total lack of elementary manners are pointed out by the public frequently. Such instances not only bring the whole institution into disrepute, but also make even the most redoubtable administrator falter in his objectives. Newspapers publish now and then reports of suicides in police custody, use of third degree methods and harassment of innocent people. Rare as these instances are, it cannot be denied that they do occur, and it would not be in the interests of the police themselves to brush them aside as of no consequence. They represent a malignancy in the body of the force, which it is necessary to remove drastically before the police can claim to perform their role in society.

The police are frequently blamed for the out-moded methods of investigation and lack of knowledge of law, both of which lead to failures in courts. In addition there are inevitable delays in the processes of law and innumerable technicalities which hamper the police at every stage. "If the prosecuting officers do not do their work well and magistrates do not support the police, and if there are delays which make the criminal feel that it is easy to escape his just deserts, then the police are working against conditions which make success almost impossible⁷".

The pivot of the police system in India is the Sub-Inspector in charge of a police station. In 1957, there were 6969 police stations to cover an area of 1,267,086 square miles⁸. (This includes Andaman, Nicobar, Laccadive and Minicoy islands). The average jurisdiction works out to about 181 square miles for each police station. Eliminating vast stretches of uninhabited areas, the jurisdiction of a rural police station may be considered as extending to about 100 square miles⁹. An officer in charge of a police station has at his command

⁷ John Lewis Gillin, *Criminology and Penology*.

⁸ *The Indian Police Journal*, October 1957.

⁹ Justice P. N. Ramaswami, *Magisterial & Police Guide*.

a posse of constables varying in strength from ten to twenty, to police the entire area which may consist as many as 50 villages and hamlets of varying sizes and populations. The question of adequacy of the forces of order can also be viewed from another angle. The police strength at the end of 1956 was 4,29,363 to serve the needs of an estimated population of 361 millions¹⁰. On an average there was only one policeman for 842 persons. If it is taken into consideration that a percentage of police strength is in respect of armed constabulary who are maintained as reserves for unforeseen emergencies, the average of police strength for thousand of population works out to much less. Even as recently as on January 29, 1961, the Home Minister of Uttar Pradesh bemoaned the utter inadequacy of the police force in the State to combat crime. He said that the strength of the police force in the State was the same as it was more than fifty years ago, and on an average there was only one policeman for nearly 1,000 of population¹¹. With inadequate numbers and lack of facilities of quick transportation, the system of rural beats breaks down sometimes. As against the comparatively constant strength of the police and leisurely rates of progress, the duties have grown enormously consequent on the increase in population, improvement in civic consciousness, and political developments. It follows therefore that the rural police officer is not in a position always to give crime prevention and detection the attention they deserve.

Nor can it be declared unequivocally that the position in towns and cities is any better. Rotation of duties, perhaps necessary from the point of morale, does not admit of development of healthy contacts with the population. The replacement of the police-man by the prowler car and the flight squad cannot by itself solve the problem of keeping in touch with crime trends in a particular area. More than at any time, in the present context of social crisis arising from the break-down of old institutions is the need for establishing and maintaining vital personal contacts greater than ever. Mere mechanization of the force, important as it is, cannot solve the basic problems of the police.

¹⁰ *The Indian Police Journal*, April 1958.

¹¹ *The Times of India*, January 25, 1961.

Perhaps the most important criterion to judge the success or failure of the police in any country is the degree of public understanding of the role of the police and the degree of co-operation and willing support that the police can obtain from the public in their hazardous and complex duties. The police can be sustained in their work only by the public, without which it is no better than a rabble. As the Prime Minister Shri Jawaharlal Nehru has said time and again, "the success of a police officer lies greatly, wherever he may be stationed and whatever he may be doing, in the measure he can obtain the co-operation of the people."¹³ "And yet, after fourteen years of the country's independence, the sad fact remains that the police have not gained much in public esteem, in spite of their heroic sacrifices and steadfast devotion to duty. So much has been said and written about this subject that it is needless to attempt to analyse the causes of failure or apportion the blame fully or partly on either of the parties. Indeed the main cause must be ascribed to public apathy to secure an efficient, well-equipped and honest force. It has become a fashion to make comparisons with the police in the United Kingdom with no reference to the conditions of recruitment, education, character of the police on the one hand and the degree of enlightenment of the general public on the other, but the inescapable fact remains that when we point out the English Bobby as an ideal to strive for, the answer is nothing more than an apologetic and defensive attitude on the part of the police and a continuous battery of criticism on the part of the public. After all, the composition and the character of the people affect the police in multitudinous ways. The stage of political and economic development, the heterogeneous population, the diversity of caste, custom and religion, the influence of science on an ancient civilization, the ecological factors, the changing flux of politics are all important factors in the development of national character which is reflected faithfully in the police. It is easy to find faults and discover individual lapses in any big organization.

¹³ Jawaharlal Nehru, From a speech delivered by the Prime Minister to the IPS probationers at Mt. Abu on Oct. 1858, *Indian Police Journal*, April 1959.

It is equally feasible to point out fundamental defects in the composition, and administration of the police forces in India. But they do not take us far. The question of police-public relations is not a one-sided affair to be assiduously practised and dreamt of by the policeman alone. It is equally of vital interest to the people on whom rests the task of ensuring and creating an effective instrument of social welfare.

This, then, is the police force in India with its good features and some unsatisfactory aspects, on whom rests the vital tasks of keeping the peace in the land, upholding the individual and social liberties conferred by the Constitution, and performing certain welfare tasks in society. When once our concepts of crime and criminals change, the functions of the police must change too. The criminal is no longer a deadly enemy to battle against, but only a victim of circumstances, of his heredity and environment, of his superstition and religion, and of the deeply-ingrained psychic complexes which by themselves are the result of a number of extraneous factors. That these new theories of scientific criminology will have to be applied increasingly to the Indian criminal cannot be denied whatever may be the cynical views of the 'realistic school' of police officers. The outstanding problem before the police forces in India is how far they can adjust themselves to the new ideas of the social role they have to play. Dr. Rajendra Prasad, summed up the role of the police in the present context as similar to that of a doctor and said that the policeman "should not forget that he himself is a human being and he has to deal with human beings, and in dealing with them, he should have always his own humanity before himself"¹³.

While a sense of realism and practicality should mark the efforts of the police in the treatment of the habitual and the incorrigible criminal, they should realize in the first instance the over-riding importance of prevention of crime which Fosdick calls the "third line of defence"¹⁴. By prevention is meant not merely patrolling the beat—it is important—but

¹³ Dr. Rajendra Prasad, From a speech delivered (by the President of Republic of India), at Kurnool on 19th August, 1959.

¹⁴ R.B. Fosdick, *American Police System*.

also the eradication of conditions which produce crime. This may at first be looked upon as a tall order. What can a humble policeman do in the matter of economic disorganisation, poor housing and starvation ? True, these sociological conditions do not lie within the purview of the policeman, but it is certainly within his compass to bring to those hapless victims a spirit of understanding and kindness instead of the arrogance of misconceived authority.

In order that the policeman can do this type of work in addition to his conventional duties, it is needless to say that he should be trained and prepared intellectually. To what extent success can be achieved in the face of almost insurmountable difficulties, time only can tell. The process will no doubt be a gradual and slow one, but it is a responsibility which the police of modern India cannot afford to shirk or evade. Not only has the policeman to be trained on the parade ground and the firing range, but a time has come when he should be taught in the schools of social welfare and defence.

Every policeman, if he is to perform the welfare tasks for which he is intended, should be well-trained and well-equipped ; he should imbibe a spirit of service and genuine consideration for his fellow-beings ; and, above all, he should have faith in himself and in God. In the thorny path of his hazardous career, he can move forward only if he has courage and faith in the righteousness of his actions. As Paul Ashenhust points out to the wavering policeman, if faith in God is "no longer a living part of him, if it has shifted away into the shadowy recesses of his mind, if it is something which only occasionally crosses his mind, he is not as good a police officer as he might be"¹⁵.

¹⁵ Paul Ashenhust, *Police and the People*.

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